

**BOARD FOR JUDICIAL  
ADMINISTRATION  
AND  
COURT MANAGEMENT  
COUNCIL**



**WASHINGTON  
COURTS**

**MEETING PACKET**

**FRIDAY, DECEMBER 9, 2011  
9:00 A.M.**

**AOC SEATAC OFFICE  
SEATAC OFFICE CENTER**

# **Board for Judicial Administration Membership**

## **VOTING MEMBERS:**

**Chief Justice Barbara Madsen**, Chair  
Supreme Court

**Judge Chris Wickham**, Member Chair  
Superior Court Judges' Association  
Thurston County Superior Court

**Judge Marlin J. Appelwick**  
Court of Appeals, Division I

**Judge Ronald Culpepper**  
Superior Court Judges' Association  
Pierce County Superior Court

**Judge Deborah Fleck**  
Superior Court Judges' Association  
King County Superior Court

**Judge Janet Garrow**  
District and Municipal Court Judges'  
Association  
King County District Court

**Judge Laura Inveen**, President  
Superior Court Judges' Association  
King County Superior Court

**Judge Jill Johanson**  
Court of Appeals, Division II

**Judge Teresa Kulik**  
Court of Appeals, Division III

**Judge Michael Lambo**  
District and Municipal Court Judges'  
Association  
Kirkland Municipal Court

**Judge Jack Nevin**  
District and Municipal Court Judges'  
Association  
Pierce County District Court

**Justice Susan Owens**  
Supreme Court

**Judge Kevin Ringus**  
District and Municipal Court Judges'  
Association  
Fife Municipal Court

**Judge Scott Sparks**  
Superior Court Judges' Association  
Kittitas County Superior Court

**Judge Gregory Tripp**, President  
District and Municipal Court Judges'  
Association  
Spokane County District Court

## **NON-VOTING MEMBERS:**

**Mr. Stephen Crossland**, President  
Washington State Bar Association

**Judge Sara Derr**, President-Elect  
District and Municipal Court Judges'  
Association  
Spokane County District Court

**Mr. Jeff Hall**  
State Court Administrator

**Ms. Paula Littlewood**, Executive Director  
Washington State Bar Association

**Judge Craig Matheson**, President-Elect  
Superior Court Judges' Association  
Benton and Franklin Superior Courts

**Ms. Michele Radosevich**, President-Elect  
Washington State Bar Association

**Judge Ann Schindler**, Presiding Chief Judge  
Court of Appeals, Division I

## **Court Management Council Membership**

**Jeff Hall, Co-Chair**  
Administrative Office of the Courts

**Lynne Jacobs, Co-Chair**  
Issaquah Municipal Court

**Peggy Bednared**  
King County District Court

**Bonnie Bush**  
Spokane County Juvenile Court

**Ronald Carpenter**  
Supreme Court

**Barbara Christensen**  
Clallam County Clerk

**Lindy Clevenger**  
Clallam County Superior Court

**Pat Escamilla**  
Clark County Juvenile Court

**Delilah George**  
Skagit County Superior Court

**Betty Gould**  
Thurston County Clerk

**Richard Johnson**  
Court of Appeals, Division I

**LaTricia Kinlow**  
Tukwila Municipal Court

**Frank Maiocco**  
Kitsap County Superior Court

**Shelly Maluo**  
Pierce County Juvenile Court

**David Ponzoha**  
Court of Appeals Division II

**Kevin Stock**  
Pierce County Clerk

**Renee Townsley**  
Court of Appeals Division III



WASHINGTON  
COURTS

**Board for Judicial Administration (BJA)  
and Court Management Council (CMC)  
Joint Meeting**

**Friday, December 9, 2011 (9:00 a.m. – noon)**

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

**AGENDA**

**1. Call to Order**

Chief Justice Barbara Madsen  
Judge Chris Wickham  
Ms. Lynne Jacobs  
Mr. Jeff Hall

9:00 a.m.

**2. Welcome and Introductions**

Chief Justice Barbara Madsen  
Judge Chris Wickham  
Ms. Lynne Jacobs  
Mr. Jeff Hall

9:00 a.m.

**3. Court Manager of the Year  
Award**

Mr. Jeff Hall

9:05 a.m.

**Joint BJA/CMC Items**

**4. Washington State Center for  
Court Research**

Dr. Carl McCurley  
Dr. Tom George  
Mr. Matt Orme

9:15 a.m.

Tab 1

**5. Transcriptionist Subcommittee**

Ms. Delilah George

9:45 a.m.

**BJA Action Items**

**6. November 18, 2011 Meeting  
Minutes**

Action: Motion to approve the  
minutes of the November 18, 2011  
meeting

Chief Justice Barbara Madsen  
Judge Chris Wickham

9:55 a.m.

Tab 2

**7. BJA Account Audit**

Action: Motion to approve the BJA  
account auditing practice

Ms. Mellani McAleenan

10:00 a.m.

Tab 3

**8. Regional Courts Work Group**

Action: Motion to go forward with  
the recommendation of the  
Regional Courts Work Group

Judge Sara Derr

10:10 a.m.

Tab 4

**9. BJA Legislative Agenda**

Action: Motion regarding the  
municipal court judge election  
legislation

Ms. Mellani McAleenan

10:30 a.m.

Tab 5

<b>10. Trial Court Operations Funding Committee Charter</b> Action: Motion to approve the Trial Court Operations Funding Committee Charter	Ms. Mellani McAleenan	10:35 a.m.  Tab 6
<b>Break</b>		10:40 a.m.
<b>BJA Reports and Information</b>		
<b>11. BJA Best Practices Committee</b>	Judge Christine Quinn-Brintnall	10:55 a.m.  Tab 7
<b>12. Role of the BJA</b>	Mr. Jeff Hall	11:10 a.m.  Tab 8
<b>13. Task Force on Race and the Criminal Justice System Recommendations</b>	Chief Justice Barbara Madsen	11:25 a.m.  Tab 9
<b>14. 2011 COSCA Resolutions</b>	Ms. Mellani McAleenan	11:40 a.m.  Tab 10
<b>15. Other Business</b>  GR 31A Public Hearing  Next meeting: January 20 Beginning at 9:30 a.m. at the Temple of Justice, Olympia	Chief Justice Barbara Madsen Judge Chris Wickham Ms. Lynne Jacobs Mr. Jeff Hall  Chief Justice Barbara Madsen	11:55 a.m.       Tab 11
Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or <a href="mailto:beth.flynn@courts.wa.gov">beth.flynn@courts.wa.gov</a> to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.		



## Judicial Services Division

### Washington State Center for Court Research

*We produce objective, empirical research so that the judiciary can improve its practices and increase efficiencies.*

The Washington State Center for Court Research (WSCCR) was established in 2004 within the Administrative Office of the Courts to create and maintain an independent capacity for objective research within the judicial branch to improve understanding of the courts, help guide judicial policy, and improve the functioning of our judicial system.

The WSCCR receives guidance and perspective from a 12-member advisory board that represents appellate courts, trial courts, court administrators, county clerks, executive branch researchers, and academic researchers.

Projects of particular note include:

- **Judicial Need Estimates and Court Staffing Reports:** Annual estimates of the number of judicial officers required in each court utilizing an objective workload analysis model.
- **Court Caseload Reporting and Court-Business Practices:** Annual Caseload Reports developed in collaboration with court managers from around the state and the Information Services Division, reporting on case filings and dispositions for all court levels.
- **Judicial Impact Statements (Fiscal Notes):** Estimates of the fiscal impact to the judiciary, at the state and local levels, of bills introduced in the Legislature; estimated to be the third highest volume of requests of state agencies.
- **Board for Judicial Administration Core Mission and Best Practices Committee:** Charged with reviewing the core mission and best practices of the Washington courts. The primary focus of the Committee at the present time is developing performance measures for the courts.
- **Residential Time Summary Reports:** Annual reports summarizing information for every dissolution case in which residential time with children is established or modified.
- **Timeliness of Dependency Case Processing in Washington:** Annual reports on the timeliness of dependency case processing, presenting information about cases that fail to meet statutory guidelines to achieve permanency for dependent children. The WSCCR works with the Children's Administration and the Office of the Attorney General to build enhanced records for dependency (child abuse and neglect) cases and to adhere to records standards derived from state and federal statute.

- **Federal Court Improvement Grant:** Development of an enhanced performance tracking capability for dependency cases; implement more frequent and automated data exchanges between the Children's Administration and family courts.
- **Case Management Assessment Process Grant:** Administration of the Case Management Assessment Processes (CMAP) tool's four-step model for effective case management of juvenile offender treatment. CMAP has been initiated in all 33 juvenile courts in Washington and includes training and refinement of the assessment to bring about change in juvenile offenders.
- **Models for Change Grant:** Research project to develop and implement programs that will reduce the use of secure detentions and reduce racial and ethnic disproportionality through increased assessments of juvenile offenders and the use of evidence-based treatment and improved mental-health services.
- **Quality Improvement in the Representation of Children in the Child Welfare System Grant:** Supports the Center's work to supply data to track implementation and outcomes of best practices training for attorneys representing children in dependency cases.

#### **Authorities:**

- Washington State Supreme Court Order #25700-B-440 establishes the Washington State Center for Court Research.
- RCW 2.56.030(4) requires AOC to make reports of the business transacted by the courts.
- RCW 2.56.030(11) requires AOC to examine the need for new superior and district court judge positions under an objective workload analysis.
- RCW 2.56.031 requires the Administrative Office of the Courts to improve the collection and reporting of information on juvenile offenders.
- RCW 2.56.120 requires the Administrative Office of the Courts to establish a procedure to report the fiscal impact of legislation on the courts.
- RCW 9.94A.850(g) requires the Administrative Office of the Courts to provide the Sentencing Guidelines Commission with available data on diversion, including the use of youth court programs, and dispositions of juvenile offenders under Chapter 13.40 RCW.
- RCW 9.94A.855 requires the Administrative Office of the Courts to provide the Caseload Forecast Council (formerly the Sentencing Guidelines Commission) such data, information, and data processing assistance as the Council may need to accomplish its duties.
- RCW 13.34.820 directs the AOC to present information about cases that fail to meet statutory guidelines to achieve permanency for dependent children.
- RCW 26.09.231 directs the AOC, in consultation with the Department of Social and Health Services Division of Child Support, to develop a Residential Time Summary Report.
- BJAR 3 and 4 (b) establishes the Core Mission and Best Practices Committee and the Committee's charge.
- GR 32 directs AOC to conduct performance audits of courts under the authority of the Supreme Court in conformity with criteria and methods developed by the Board for Judicial Administration.



- 2ESB 1087 (2011) directs the Center for Court Research to participate in a juvenile court funding block grant oversight committee and to provide information necessary to continually assess the performance of juvenile probation programs.





## **Board for Judicial Administration (BJA)**

**Friday, November 18, 2011 (9:30 a.m. – 12:00 p.m.)**

**AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac**

### **MEETING MINUTES**

#### **Members Present:**

Judge Michael Lambo, Chair Pro Tem  
Judge Marlin Appelwick  
Mr. Stephen Crossland  
Judge Ronald Culpepper  
Judge Sara Derr  
Judge Deborah Fleck (by phone)  
Judge Janet Garrow  
Mr. Jeff Hall  
Judge Laura Inveen  
Judge Jill Johanson  
Ms. Paula Littlewood  
Judge Craig Matheson (by phone)  
Judge Jack Nevin (by phone)  
Justice Susan Owens  
Judge Kevin Ringus  
Judge Scott Sparks  
Judge Ann Schindler  
Judge Gregory Tripp

#### **Guests Present:**

Mr. Jim Bamberger  
Mr. M. Wayne Blair  
Ms. Bonnie Bush

#### **AOC Staff Present:**

Ms. Beth Flynn  
Mr. Dirk Marler  
Ms. Mellani McAleenan

The meeting was called to order by Judge Lambo.

#### October 21, 2011 Meeting Minutes

**It was moved Judge Garrow and seconded by Judge Ringus to approve the October 21, 2011 BJA meeting minutes. The motion carried.**

#### BJA Public Trust and Confidence Committee Appointments

**It was moved by Judge Ringus and seconded by Judge Garrow to appoint Ms. Sharon Vance and Ms. Samantha Barrera and reappoint Mr. David Johnson, Ms. Kristen Barron, and Ms. Marilyn Finsen to the BJA Public Trust and Confidence Committee. The motion carried.**

#### BJA Best Practices Committee Appointment

**It was moved by Judge Ringus and seconded by Judge Garrow to appoint Mr. Pat Escamilla to the BJA Best Practices Committee. The motion carried.**

### 2012 BJA Meeting Schedule

**It was moved by Judge Sparks and seconded by Judge Ringus to approve the 2012 BJA meeting schedule. The motion carried.**

### BJA Account Audit

The BJA discussed the issue of auditing the BJA account a few months ago and there were concerns that the cost of the audit was too expensive considering the size of the account (\$15,000 - \$20,000). Ms. Littlewood stated in a previous meeting that the WSBA uses WSBA staff to audit their small account and the auditor sends the results directly to the WSBA President.

Ms. McAleenan revised the wording of the account policy to utilize Administrative Office of the Courts (AOC) staff or a vendor to perform the audit every three years. The results would be sent directly to the BJA Chair and Member Chair. There is a concern about AOC staff using state time to look at the private BJA account so the AOC staff could be paid a small amount to review the BJA account books on their own time.

The following suggestions were made to wording of the auditing policy:

- The last sentence should state "The examination report" instead of "examination findings."
- In the first sentence, the word "qualified" should be added prior to the word "person."

The suggested revisions will be made and the auditing policy will be brought back for a decision at the December BJA meeting.

### BJA Legislative Agenda

Ms. McAleenan reviewed the action the BJA has taken on possible BJA request legislation in the past.

The Interpreter Commission's request for legislation was discussed by the Interpreter Commission and they decided to draft a resolution which will be brought to the BJA in the future.

The BJA decided to delay the decision of the election of municipal court judges legislation until it is determined what the 2012 legislative session will look like. Mr. Hall and Ms. McAleenan met with the chairs of the House and Senate Judiciary committees the other day. Senator Adam Kline wants to be helpful but thought this is something that we might want to put on hold for a year. Representative Jamie Petersen is not a proponent of this bill. It was mentioned that municipal court judges are in the middle of their terms so there is no urgency on pushing this forward.

There are new judge requests from Whatcom County Superior Court and Benton and Franklin Counties Superior Court. The judicial need is obvious based on the recent Judicial Needs Estimate, however, the chairs of the House and Senate Judiciary committees did not receive

these requests favorably. Bills with a fiscal note will not be well received this year. The idea of the BJA going forward with bills with price tags might be inflammatory for the BJA. Ms. McAleenan spoke with Judge Charles Snyder and Judge Craig Matheson and both of them indicated they did not want to go forward with something if it would cause undo liability toward the judicial branch. They are fine with waiting until the budget improves.

**It was moved by Judge Schindler and seconded by Judge Sparks that the BJA not go forward with the new judge requests in the 2012 legislative session. The motion carried with Justice Owens opposed.**

#### Budget Report

Mr. Hall reported that the revenue forecast is down another \$122 million. There has been no significant change in the forecast and the European economy and federal government's inability to solve the fiscal issues in our economy are still risk factors.

The Governor should release her supplemental budget as early as Monday. It will be an all cuts budget but will be followed by the Governor's suggestions for tax packages.

The special session is starting the week after Thanksgiving. Right now there is no clarity on what will happen during the special session.

There was an October meeting of the judicial branch budget group. Chief Justice Madsen identified the BJA Executive Committee as the initial BJA group that will discuss the Administrative Office of the Courts' (AOC) budget. In the event there is a budget issue that impacts the judicial branch more broadly, the Chief will convene a larger group to figure out how to collectively respond to the issue.

Mr. Hall stated that where the cuts come from in the AOC budget will partially depend on how large the reductions are. If the cut is in the millions of dollars, AOC cannot make reductions in the AOC budget without also including cuts to the pass-through funds.

#### Regional Courts Work Group

Judge Derr gave an overview of the recommendations from the Regional Courts Work Group. The work group wanted to be practical with their recommendations since there is no funding for regionalizing courts of limited jurisdiction at this point in time. They decided to study what courts are doing now because there are some regional court models in use around the state and the study could focus on what models are in use, which jurisdictions are using them, how the revenues and costs are shared, and how well the models serve the needs of the court users. They are hoping to find a grant to pay for the study. After studying what is in use, they could look at what it would take to regionalize courts of limited jurisdiction and create goals to improve services.

The work group proposes that each regional court would have hub court and all staff would be full-time at the hub court or serving in satellite courts. In order to serve all the users of the courts there will be some satellite courts and the courts could go to electronic filing and universal cashiering. Having staff full-time and centralized allows for training. Central services would be located at the hub court. The hub court would house the presiding judge and every

judge would vote on and answer to the presiding judge. Another goal is to be efficient in their funds and economies of scale. It is necessary to provide a consistent level of training and use of resources and have the hub court have centralized receipting and distribution of funds.

The work group recommends the creation of a governance body in each regional court. The work group looked at a regional court districting committee which is set up for district courts and it is county based. At this point the pilots would have to agree in an interlocal agreement or a memorandum of understanding. One of the concerns with contracting cities is that they have no voice and the work group wanted to include them in this governing body. Having the presiding judge be a member is also important. Something will need to be worked out in that governing body in the pilot courts that will not step on anyone's toes jurisdictionally.

The work group does not feel that legislation is needed at this time but they cannot go forward until the BJA decides that this is the route the BJA wants to take.

#### Access to Justice Board

Mr. Blair congratulated Judge Steven González, the Access to Justice Board (ATJ) Chair, who was recently appointed to the Supreme Court. He hopes to finish his term on the ATJ board but will step down as Chair. Has been a very effective chair and they are sorry to see him go.

The ATJ Board had been translating forms from legalese to plain language for ease of use for pro se court users. They are starting with family law forms. There are 200+ forms and so far they have translated 18 and they are out of funding.

#### Washington State Bar Association

Steve Crossland reported that the October Board of Governors (BOG) meeting was held in Tacoma. During the meeting Chief Justice Madsen requested support from the BOG regarding legal funding issues. The meeting also included a report from the WSBA Leadership Institute.

The next BOG meeting is in Bellingham on December 9 and 10 and the Civil Legal Needs Work Group will present a report. They will also review their legislative agenda and hear from the Immigration Advisory Opinion Work Group and the Washington State Bar Foundation.

#### Reports from the Courts

**Supreme Courts:** Justice Owens reported that the Supreme Court Rules Committee received a proposal from a non-lawyer asking the court to create a rule for independent law firms.

Tuesday night the Washington Appellate Lawyers Association had a nice reception for retiring Justice Gerry Alexander.

**Court of Appeals:** Judge Schindler stated the Court of Appeals continues to grapple with budget issues from the last few years and in Division II the backlog has doubled but all three divisions are working together to identify what cases they can transfer to help with the backlog.

**Superior Courts:** Judge Inveen reported that the superior courts are in the midst of activities surrounding the case management system. All 39 counties have to commit to being satisfied

with the requirements in order to receive funding for the project. Superior court representatives are assisting with the requirement setting and the Judicial Information System Committee (JISC) is meeting at the beginning of December to evaluate the requirements.

Becca is a big legislative agenda item for the Superior Court Judges' Association (SCJA) and policymakers have received the latest data for Becca and truancy funding.

Following the judicial branch budget meeting in October, the SCJA was very concerned that it appeared trial courts' ability to advocate for legislation would need approval from the Supreme Court. The SCJA signed a resolution stating they will continue to advocate on their own behalf. The SCJA anticipates they will be able to reach consensus on issues within the judicial branch and that the branch will be able to speak with one voice.

**Courts of Limited Jurisdiction:** Judge Tripp stated that the District and Municipal Court Judges' Association (DMCJA) sent a letter to the JISC supporting the District and Municipal Court Managers Association's request for a case management system. The DMCJA legislative efforts will include a request that counties and cities provide security for courts and they will go forward with a district court retirement bill.

#### Association Reports

**Juvenile Court Administrators:** Bonnie Bush stated that the Washington Association of Juvenile Court Administrators (WAJCA) e-board met in early November. Their legislative agenda will include maintaining front-end funding and they will put a lot of focus on Becca.

#### Administrative Office of the Courts

Mr. Hall reported that AOC staff are starting to prepare for the legislative session. AOC's long-time fiscal note writer, Ms. Julia Appel, will retire at the end of the legislative session and Ms. Charlotte Jensen will take over.

There being no further business, the meeting was adjourned.

#### **Recap of Motions from November 18, 2011 meeting**

<b>Motion Summary</b>	<b>Status</b>
Approve the October 21 Meeting Minutes	Passed
Appoint Ms. Sharon Vance and Ms. Samantha Barrera and reappoint Mr. David Johnson, Ms. Kristen Barron, and Ms. Marilyn Finsen to the BJA Public Trust and Confidence Committee.	Passed
Appoint Mr. Pat Escamilla to the BJA Best Practices Committee.	Passed
Approve the 2012 BJA meeting schedule.	Passed
Not go forward with the new judge requests in the 2012 legislative session.	Passed with Justice Owens Opposed

**Action Items updated for November 18, 2011 meeting**

Action Item	Status
<u>October 21, 2011 Meeting Minutes</u> <ul style="list-style-type: none"> <li>Send the approved minutes to Camilla Faulk for the En Banc binders</li> <li>Post the approved minutes online</li> </ul>	<p>Done</p> <p>Done</p>
<u>BJA Public Trust and Confidence Committee Appointments</u> <ul style="list-style-type: none"> <li>Send appointment letters</li> </ul>	<p>In Process</p>
<u>BJA Best Practices Committee Appointment</u> <ul style="list-style-type: none"> <li>Send appointment letter</li> </ul>	<p>In Process</p>
<u>2012 BJA Meeting Schedule</u> <ul style="list-style-type: none"> <li>Post the BJA meeting schedule on the BJA Web site</li> <li>Update the agency calendar with the BJA meeting dates</li> </ul>	<p>Done</p> <p>Done</p>
<u>BJA Account Audit</u> <ul style="list-style-type: none"> <li>Put on December agenda for action</li> <li>Change the proposed language in the last sentence: The last sentence should state "The examination report" instead of "examination findings."</li> </ul> <p>In the first sentence, the word "qualified" should be added prior to the word "person."</p>	<p>Done</p> <p>Done</p>
<u>BJA Request Legislation</u> <ul style="list-style-type: none"> <li>Do not go forward with the new judge requests. Mellani will notify Whatcom and Benton/Franklin counties about the decision.</li> <li>Delay the decision on the municipal court judge election bill.</li> </ul>	<p>Done</p> <p>Added to Dec. agenda</p>
<u>Regional Courts Work Group</u> <ul style="list-style-type: none"> <li>Put on December agenda for action.</li> </ul>	<p>Done</p>





## **Proposed BJA Account Audit Policy**

The Associate Director shall cause regular books of account to be properly maintained, which shall be examined no less than every three years by a qualified person who is not involved in maintaining the regular books of account. The examination report shall be communicated directly to the Chief Justice Chair and the Member Chair.



## **REGIONAL COURTS WORKGROUP ~ SUMMARY**

The Regional Courts Workgroup submit a proposal to the BJA which includes an evaluation of regional pilot courts to evaluate the efficiencies and benefits of a consolidated model of limited jurisdiction court operations, administration and services. The draft was shared with the BJA on October 21, 2011. The court members of the workgroup met regularly in September and October, and the combined workgroup representatives met on October 21, 2011 and November 4, 2011 to provide additional input to the proposal.

The goal of the regional courts is to:

1. Improve services the court customer populations
2. Spend funds efficiently
3. Provide better justice by maximizing existing resources and services
4. Obtain a consistent level of training and expertise for administrative court staff statewide

### **I. Executive Branch – Governance Body**

Regional courts need a governance body for the duration of the pilot. As pilot courts are implemented, the type of oversight necessary and the authority of the persons/entities involved will be evaluated. Initially, the responsibility and membership of the governance body are as follows:

1. Membership will consist of representatives from all contracting jurisdictions
2. Meetings will be convened by an agreed upon person and will meeting regularly (at least quarterly)
3. The governance body will be created by contract or Memorandum of Understanding (MOU) with an evaluation for possible statutory change
4. The Presiding Judge will be a member and active participant in the oversight committee especially for providing court data, and addressing court issues
5. Fiscal impact considerations as well as process considerations are considered by the oversight group

*Any changes to the statutes could be through Title 39 contracting statutes or the Districting Committee statute. The proposal does not require statutory changes to the Districting Committee statutory structure, but any pilot courts selected will be required to incorporate an oversight group into the contractual relationship that consolidate court operations.*

### **II. Judicial Branch - Pilots Courts**

For the purposes of the pilot court evaluation, pilot courts and “control” courts need to be identified. This will be the first task of the evaluation team. The courts selected as pilots need to commit to three centralized elements of a regional court model including: election of a presiding judge to serve at the designated hub court, full time court administrator and staff centrally located at the hub court, and record maintenance by

entering court records into the Judicial Information System (JIS). This may be accomplished by existing contractual relationships, amending contracts, or entering into an MOU.

The other elements of the Regional Courts Pilot Courts include:

1. A hub court identified, including the option of satellite courts
2. A Regional Court Presiding Judge elected by the Judges serving the regional court
3. Centralized and full time Court Administrator and support staff primarily located at the Hub court
4. Centralized services – records, forms, cashiering (universal within the region?), probation, pretrial, technology, clerk support, etc
5. A commitment to 4 years for the pilot court (this is the proposed time frame but may be subject to change to be consistent with judicial term or for a period of time necessary for the study)
6. A commitment to abide by the Judicial Needs Estimate in determining the number of judicial officers necessary for the Regional Court
7. Neutral evaluation of the regional court pilots by AOC?/City and County?/outside agency? TBD

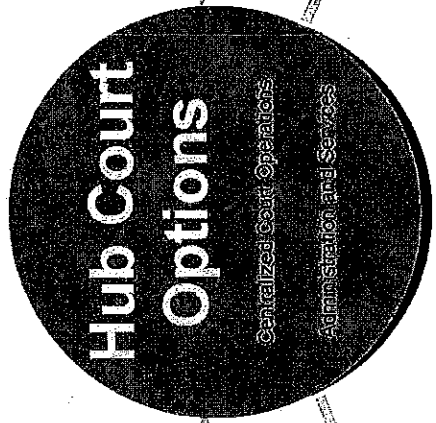
*The Workgroup has identified several court groups that fall within the Regional Court structures as proposed. No court has been approached to participate yet.*

## **SUMMARY**

The Regional Courts Workgroup will await a decision of the BJA on whether or not to proceed with the pilot court evaluation for Regional Courts. Should the workgroup be tasked with proceeding, a meeting schedule and implementation schedule will be developed to pursue the objective of Regional Courts.

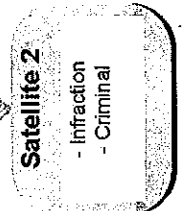
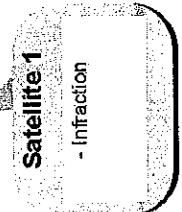
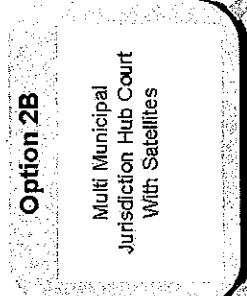
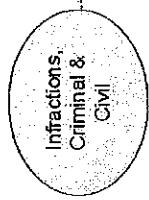
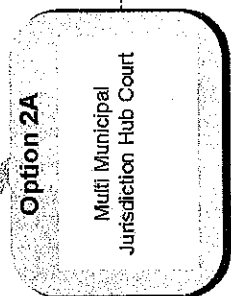
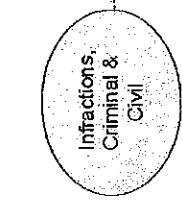
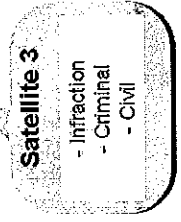
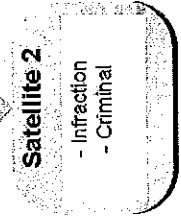
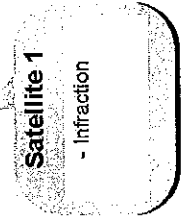
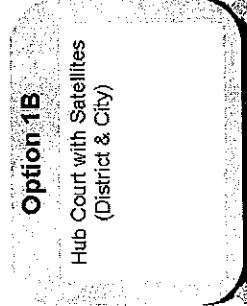
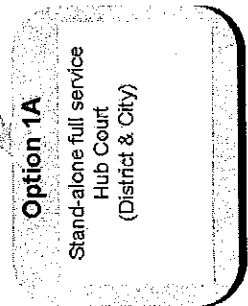
**Executive Branch**  
**Regional Court**  
**Districting Committee**  
**(RCDC)**

Contract  
Interlocal Agreement  
Memorandum of  
Understanding



**Judicial Branch**  
**Presiding Judge**

Administrator and Court  
Staff  
GR 29 Authority





**Board for Judicial Administration  
Proposed 2012 Legislative Agenda**

**Board for Judicial Administration Request Legislation – PENDING**

- **Regional Courts of Limited Jurisdiction**

The Regional Courts of Limited Jurisdiction Work Group will continue meeting during October and November. The work group has not yet determined whether they will recommend that legislation be sought during the 2012 session but the need for legislation appears to be unlikely.

**Status: Pending further work group discussion and review. Legislation unlikely.**

**Board for Judicial Administration Request Legislation – PREVIOUSLY APPROVED**

- **Changing the election and appointment provisions for municipal court judges**

- Legislation from the 2011 session is automatically revived for the 2012 session.
- Last year's bill would require the election of all municipal court judges.
- Technical corrections regarding the election process will need to be made at the request of the auditors if the bill proceeds.

**Status: BJA Approval Received in 2010. BJA reviewed at the October and November 2011 meetings and made the recommendation to delay a decision regarding how to proceed until closer to session.**

**Board for Judicial Administration Request Legislation – PREVIOUSLY REVIEWED**

- **Payment of interpreter expenses in civil hearings**

- The Interpreter Commission is requesting that the BJA consider legislation to require that interpreters be provided at no expense to non-English speaking persons regardless of indigency in all cases. State funding is not requested.
- Subsequent to the Leg/Exec discussion, a survey was sent to all courts requesting information about their current practices in order to evaluate the impact of such a requirement on local government.

**Status: BJA declined the request for legislation at the October 2011 meeting but offered to adopt a resolution or look at best practices. The Interpreter Commission will draft a resolution for BJA's review at its February meeting.**

- **Allowing judges facing mandatory retirement to complete their term of office**

- The DMCJA is requesting that the BJA consider legislation to allow judges facing mandatory retirement to finish their term of office rather than requiring retirement at the end of their 75<sup>th</sup> year.
- The mandatory retirement age is statutory for district court judges but constitutional for superior court judges and supreme court justices. Court of Appeals judges mirror the supreme court requirements by statute. To address the issue at all court levels, a constitutional amendment would be necessary. To amend the constitution, a bill must pass the legislature with a simple majority, a resolution must also pass the legislature



with a two-thirds vote, and the amendment must be placed on the statewide ballot for approval.

- A recent Seattle PI report indicated that 65% of those surveyed supported a mandatory retirement age for judges but did not address this question specifically.

**Status: BJA declined the request for legislation at the October 2011 meeting but did not preclude supporting a DMCJA effort.**

- **New Judicial Position in Whatcom County Superior Court**

Whatcom County Superior Court has requested authorization for one additional judicial position.

**Status: BJA declined the request for legislation at the November 2011 meeting.**

- **New Judicial Position in Benton-Franklin County Superior Court**

Benton-Franklin County Superior Court has requested authorization for one additional judicial position.

**Status: BJA declined the request for legislation at the November 2011 meeting.**





**Board for Judicial Administration  
Trial Court Operations Funding Committee Charter**

**Charge:**

The Trial Court Operations Funding Committee (TCOFC) was reactivated as a standing committee under the auspices of the Board for Judicial Administration (BJA) in March 2011. Consistent with the role and responsibilities of the BJA under BJAR 4, the TCOFC is charged with developing specific funding proposals and implementation plans for trial court operations, in accordance with the Supreme Court's budget development process, for recommendation to the BJA. The TCOFC shall also assist the Administrative Office of the Courts (AOC) in identifying data to collect pursuant to RCW 2.56.030(6), which requires AOC to "collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith."

**Approach:**

The TCOFC shall submit preliminary recommendations to the BJA for initial review prior to full development of a budget proposal. The BJA shall provide feedback and recommendations to the TCOFC. The TCOFC shall then develop a more detailed proposal, incorporating BJA feedback when appropriate. AOC staff shall work with the TCOFC chair to develop a meeting schedule that allows the BJA schedule to comport with the Supreme Court's budget development timeline.

The TCOFC may make recommendations to the BJA regarding whether a proposal should be submitted to the Supreme Court as either a request to be included in the budget submission or to be worked through the legislative process without inclusion in the budget submission.

**Membership:**

Upon reconstitution of the committee in March 2011, the membership composition reflected that of the 2008 committee. With the creation of the committee charter, the composition has been changed to achieve better representative balance while maintaining a manageable committee size.

Membership shall consist of the following:

Two members from the Superior Court Judges' Association  
Two members from the District & Municipal Court Judges' Association  
One member from the Association for Washington Superior Court Administrators  
One member from the Washington Association of Juvenile Court Administrators  
Two members from the District & Municipal Court Management Association

The above associations shall nominate members for approval by the BJA. In nominating and approving members, consideration shall be given to maintaining geographic and court-size diversity of membership. In accordance with BJA by-laws, members are eligible for one two-year term and reappointment for one additional two-year term. Initial terms will be staggered, with half lasting one year.

**Membership:**

Name	Court	Representing	Term Expires
		SCJA	2 years
		SCJA	1 year
		DMCJA	2 years
		DMCJA	1 year
		AWSCA	2 years
		WAJCA	1 year
		DMCMA	2 years
		DMCMA	1 year

**AOC Staff:**

Court Services Manager  
Administrative Secretary

December 9, 2011



# **Best Practices Committee**

## **Report to the Board for Judicial Administration November, 2011**

Joint Chairs: Judge Christine Quinn-Brintnall, Division II, COA  
Judge Jean Rietschel, King County Superior Court

### **Committee Focus**

The BJA Best Practices Committee's primary activity is concentrated on creating, testing, and evaluating performance audit measures. The BJA created a performance audit policy (GR 32), defined a process, and approved sixteen measures for the Best Practices Committee (BPC) to pursue. The measures will ultimately be integrated into a comprehensive court performance audit plan. Each measure is designed to allow the auditor (AOC staff) to evaluate a court's activities related to the standards defined for that measure. The standards must be reasonable for courts at all levels to achieve whether they are large, small, urban, or rural.

The BPC has created a uniform format for performance measures. Each measure begins with a brief description, defines the standards that the courts must meet, and provides a methodology for the auditor. This is followed by audit guidelines with questions designed to determine whether the court meets each standard. The questions focus on documentation, procedures, and court processes which, together with any available JIS data, can be objectively verified by the auditor. In addition, standard questionnaires are being created which allow the auditor to gather information during the audit that provides context for the report and documents circumstances that might prevent a court meeting the standards.

Each measure is tested in three courts and modified after each test as necessary. After the final test, staff prepares an assessment of the measure based on the evaluation criteria defined by the BJA and based on the Generally Accepted Government Auditing Standards (GAGAS). If the measure meets the criteria, it is approved by the BPC and recommended to the BJA for adoption. The adopted measures are being compiled into a Court Performance Audit Manual which will be published for two years before courts can be audited based on the standards contained in those measures.

### **Current Activities**

During the past year the BPC developed and tested a case management measure for superior courts. Tests of the measure were conducted at Cowlitz, Thurston, and Jefferson Superior Courts. The measure has been approved by the BPC and will be recommended to the BJA for adoption when the case management measure currently being developed for the Court of Appeals is complete. It is not possible to develop a case management measure for courts of limited jurisdiction at this time as appropriate data are not currently available.

A previously completed and approved jury management measure will also be recommended to the BJA for adoption. The BJA previously approved the following measures:

- Response to Financial Audits.
- Access for the Self-Represented and/or Financially Disadvantaged.
- Access for Court Users with Disabilities.
- Access for Court Users with Limited English Proficiency.



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## Rules (BJAR)

### Preamble

The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice.

### Rule 1. Board for Judicial Administration

The Board for Judicial Administration is created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State. Judges serving on the Board for Judicial Administration shall pursue the best interests of the judiciary at large.

### Rule 2. Composition

- a. **Membership.** The Board for Judicial Administration shall consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).
- b. **Selection.** Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences.
- c. **Terms of Office.**
  1. Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association member for a two-year term; and one judge from each level of trial court for a one-year term. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three year terms commencing annually on June 1. The Chief Justice, the President Judges and the Administrator for the Courts shall serve during tenure.
  2. Members serving on the BJA shall be granted equivalent pro tempore time.

### Rule 3. Operation



- a. **Leadership.** The Board for Judicial Administration shall be chaired by the Chief Justice of the Washington Supreme Court in conjunction with a Member Chair who shall be elected by the Board. The duties of the Chief Justice Chair and the Member Chair shall be clearly articulated in the by-laws. The Member Chair shall serve as chair of the Long-range Planning Committee. Meetings of the Board may be convened by either chair and held at least bimonthly. Any Board member may submit issues for the meeting agenda.
- b. **Committees.** Ad hoc and standing committees may be appointed for the purpose of facilitating the work of the Board. Non-judicial committee members shall participate in non-voting advisory capacity only.
  - 1. The Board shall appoint at least three standing committees: Long-range Planning, Core Missions/Best Practices and Legislative. Other committees may be convened as determined by the Board.
  - 2. The Chief Justice and the Member Chair shall nominate for the Board's approval the chairs and members of the committees. Committee membership may include citizens, experts from the private sector, members of the legal community, legislators, clerks and court administrators.
- c. **Voting.** All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Eight voting members will constitute a quorum provided at least one judge from each level of court is present. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

#### Rule 4. Duties

- a. The Board shall establish a long-range plan for the judiciary;
- b. The Board shall continually review the core missions and best practices of the courts;
- c. The Board shall develop a funding strategy for the judiciary consistent with the long-range plan and **RCW 43.135.060**;
- d. The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;
- e. The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system;
- f. The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.

#### Rule 5. Staff

Staff for the Board for Judicial Administration shall be provided by the Administrator for the Courts.

Amended January 6, 2000

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## **BOARD FOR JUDICIAL ADMINISTRATION BYLAWS**

### **ARTICLE I** **Purpose**

The Board for Judicial Administration shall adopt policies and provide leadership for the administration of justice in Washington courts. Included in, but not limited to, that responsibility is: 1) establishing a judicial position on legislation; 2) providing direction to the Administrative Office of the Courts on legislative and other administrative matters affecting the administration of justice; 3) fostering the local administration of justice by improving communication within the judicial branch; and 4) providing leadership for the courts at large, enabling the judiciary to speak with one voice.

### **ARTICLE II** **Membership**

Membership in the Board for Judicial Administration shall consist of the Chief Justice and one other member of the Supreme Court, one member from each division of the Court of Appeals, five members from the Superior Court Judges' Association, one of whom shall be the President; five members from the District and Municipal Court Judges' Association, one of whom shall be the President. It shall also include as non-voting members two members of the Washington State Bar Association appointed by the Board of Governors; the Administrator for the Courts; and the Presiding Chief Judge of the Court of Appeals, the President-elect judge of the Superior Court Judges' Association and the President-elect judge of the District and Municipal Court Judges' Association.

### **ARTICLE III** **Officers and Representatives**

The Chief Justice of the Supreme Court shall chair the Board for Judicial Administration in conjunction with a Member chair. The Member chair shall be elected by the Board and shall serve a two year term. The Member chair position shall be filled alternately between a voting Board member who is a superior court judge and a voting Board member who is either a district or municipal court judge.

### **ARTICLE IV** **Duties of Officers**

The Chief Justice Chair shall preside at all meetings of the Board, performing the duties usually incident to such office, and shall be the official spokesperson for the Board. The Chief Justice chair and the Member chair shall nominate for the Board's approval the chairs of all committees. The Member chair shall perform the duties of the Chief Justice chair in the absence or incapacity of the Chief Justice chair.

### **ARTICLE V** **Vacancies**

If a vacancy occurs in any representative position, the bylaws of the governing groups shall determine how the vacancy will be filled.

## **ARTICLE VI** **Committees**

Standing committees as well as ad hoc committees and task forces of the Board for Judicial Administration shall be established by majority vote.

Each committee shall have such authority as the Board deems appropriate.

The Board for Judicial Administration will designate the chair of all standing, ad hoc, and task force committees created by the Board. Membership on all committees and task forces will reflect representation from all court levels. Committees shall report in writing to the Board for Judicial Administration as appropriate to their charge. The Chair of each standing committee shall be asked to attend one BJA meeting per year, at a minimum, to report on the committee's work. The terms of standing committee members shall not exceed two years. The Board for Judicial Administration may reappoint members of standing committees to one additional term. The terms of ad hoc and task force committee members will have terms as determined by their charge.

## **ARTICLE VII** **Executive Committee**

There shall be an Executive Committee composed of Board for Judicial Administration members, and consisting of the co-chairs, a Judge from the Court of Appeals selected by and from the Court of Appeals members of the Board, the President Judge of the Superior Court Judges' Association, the President Judge of the District Municipal Court Judges' Association, and non-voting members to include one Washington State Bar Association representative selected by the Chief Justice, President-elect judge of the Superior Court Judges' Association, President-elect judge of the District and Municipal Court Judges' Association and the Administrator for the Courts.

It is the purpose of this committee to consider and take action on emergency matters arising between Board meetings, subject to ratification of the Board.

The Executive Committee shall serve as the Legislative Committee as established under BJAR 3(b)(1). During legislative sessions, the Executive Committee is authorized to conduct telephone conferences for the purpose of reviewing legislative positions.

## **ARTICLE VIII** **Regular Meetings**

There shall be regularly scheduled meetings of the Board for Judicial Administration at least bi-monthly. Reasonable notice of meetings shall be given each member.

## **ARTICLE IX** **Special Meetings**

Special meetings may be called by any member of the Board. Reasonable notice of special meetings shall be given each member.

## **ARTICLE X** **Quorum**

Eight voting members of the Board shall constitute a quorum provided each court level is represented.

## **ARTICLE XI**

### **Voting**

Each judicial member of the Board for Judicial Administration shall have one vote. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

## **ARTICLE XII**

### **Amendments and Repeal of Bylaws**

These bylaws may be amended or modified at any regular or special meeting of the Board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

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Washington  
State  
Commission  
on Justice,  
Efficiency  
and Accountability

August 1999

# Washington State Commission on Justice, Efficiency and Accountability

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Judge C. Kenneth Grosse, Vice Chair  
*Chair, Court Funding Subcommittee*  
Judge Susan R. Agid  
*Chair, Core Mission Subcommittee*  
Judge Michael E. Donohue  
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# Foreword

**"Justice is the ligament  
which holds civilized  
beings and civilized  
nations together.  
Wherever her temple  
stands, there is security,  
happiness and progress...  
And whoever labors on  
this edifice, whoever  
clears its foundations,  
strengthens its pillars or  
contributes to raise it  
still higher in the skies  
connects themselves with  
that which is and must be  
as durable as human  
society itself."**

**Daniel Webster  
1866**

Over 100 years ago Daniel Webster, the great American educator and folk philosopher, courageously suggested that judges themselves should be the architects of a court system - a system built with the bricks and mortar of justice, efficiency and accountability. That principle of self determination is the cornerstone of our report and the effort to equip judges with the tools to manage our courts is the foundation of our recommendations.

Various commissions and task forces have struggled over the last quarter of a century to explore ways to improve the operation of our courts. But even though many of these efforts resulted in extensive recommendations which we agree would improve our courts, change has been limited.

Dean Roscoe Pound, former Dean of Harvard Law School and father of judicial reform, observed that -

*"Grave obstacles stand in the way of improvement. The present system works well enough in the average rural community, and legislators from those communities see no need of change. The instinct of lawyers to scrutinize with suspicion all projects to reform has always retarded the progress. Imperfection of our legislative methods will hold back statutory improvements.*

*Popular suspicion of lawyers . . . will impede the adoption of durable methods. . .*

*But these obstacles will hinder little in the end, if our projects have a sound basis in thorough, impartial research."*

In recommending the best system for equipping the judiciary to set a course for our courts, the Commission recognized the need to establish a governance structure which would encourage dialogue among the various court levels, initiate impartial studies leading to soundly-based recommendations for change and incorporate the participation of other elected officials and the public. Once in place, the re-created Board for Judicial Administration and its committees composed of legislators, lawyers, court managers and the public will "advance the effective operation to the Washington state court system."

Applying the principle of self direction to a system composed of separately elected officials funded by a variety of methods and agencies requires determination and cooperation. Suspicions are not always vocalized and status quo is comfortable. The Commission's recommendations are intended to eliminate Pound's obstacles and equip the judiciary to achieve Webster's justice.

*Douglas P. Beighle, Chair  
Commission on Justice, Efficiency and Accountability  
August 1999*

# Summary of Recommendations

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## **1. Mission of the BJA**

The Mission of the Board for Judicial Administration should be revised to emphasize a governance versus "representative" purpose.

---

## **2. BJA Leadership**

2.1 The Chief Justice of the Washington state Supreme Court should chair the Board for Judicial Administration. The co-chair should be elected from the membership.

2.2 The duties of the chair and co-chair should be clearly articulated in the bylaws, including the co-chair's role as chair of the long-range planning committee.

2.3 The chair in consultation with the co-chair should establish the meeting agenda and meetings should be held bi-monthly. The chair and co-chair should each have independent authority to convene meetings of the BJA.

---

## **3. Standing Committees**

3.1 At least three standing committees should be created: Long-range Planning (including funding issues); Core Mission/Best Practices; and Legislative.

3.2 Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an "as needed" basis.

3.3 The chair, with the concurrence of the co-chair, shall nominate for the Board's approval the members and chairs of the various Board committees. Committee membership should be open to citizens and experts from the private sector.

---

## **4. Judicial Participation**

In order to encourage judges' participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time.

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## **5. Staff Support**

The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.

---

## **6. Board Membership**

6.1 In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include:

Appellate Courts

Supreme Court - 2 (one being the Chief Justice)

Court of Appeals - 3

Superior Courts - 5 (one being the President)

District & Municipal Courts - 5

(one being the President)

Washington state Bar Association - 2 (non-voting)

State Court Administrator (non-voting)

6.2 Members should serve four-year staggered terms based upon a selection process established by their respective associations. President judges should serve for their term of office.

6.3 The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect ethnic and gender diversity as well as geographic and caseload differences.

## Summary of Recommendations

*continued*

---

### **7. Voting**

7.1 All Board for Judicial Administration decisions will be made, whenever possible, by consensus. Final decisions should be made on the basis of majority vote of those present and voting with the requirements that there be at least one affirmative vote from each level of court.

7.2 Eight voting members will constitute a quorum, provided each court level is represented. Telephone or electronic attendance should be permitted but no proxy representation should be allowed.

---

### **8. Best Practices**

8.1 The Board for Judicial Administration should recognize the court performance standards and charge the Core Mission/Best Practices standing committee with the integration of these standards into daily court operations.

8.2 The Board for Judicial Administration should develop an education program for judges and courts on the usage of court performance standards to improve court operations.

8.3 The Board for Judicial Administration should establish within the Core Mission/Best Practices standing committee a clearinghouse for sharing best practices ideas.

---

### **9. Core Functions of Courts**

9.1 The Board for Judicial Administration standing committee on Core Mission/Best Practices should conduct a more comprehensive study of the core and noncore function of the courts.

9.2 The standing committee shall conduct an evaluation of the core mission of courts on an annual basis and report its findings to the Board for Judicial Administration.

---

### **10. Adequate Resources for Courts**

10.1 The Board for Judicial Administration shall assume the responsibility for assessing the adequacy of resources that are available to the Washington state Court system to fulfill its mission.

10.2 The assessment of resources required for the Washington state Court system must involve an ongoing assessment of the core mission and best practices used by courts.

10.3 The Board for Judicial Administration should develop an overall funding strategy for the judiciary, consistent with the long-range plan including consideration of Initiative 62.

10.4 The Board for Judicial Administration should evaluate the desirability of the state assuming greater responsibility for funding mandated judicial services.

# Introduction

**"Our constitutional  
scheme for judicial  
independence and  
accountability is  
imprecise and untidy."**

**Stephen Breyer  
Associate Justice  
United States Supreme Court**

As an outgrowth of their long-range planning meetings in 1996, the Superior Court Judges' and the District and Municipal Court Judges' Associations asked the Board for Judicial Administration (BJA) to undertake a long-range planning process for court funding. Later that year the president-judges of the judicial associations met with focus groups comprised of presiding judges from both levels of trial courts to discuss funding issues including the state's assumption of funding non-discretionary services. At the direction of then Chief Justice Barbara Durham, these efforts culminated in the BJA forming the Commission on Justice, Efficiency and Accountability in 1997.

Over the last year and a half, the full Commission and four subcommittees have held more than 27 meetings. Additionally, the Commission chair and various subcommittee chairs met with the Board for Judicial Administration and the governing boards of the Superior Court Judges' Association, the District and Municipal Court Judges' Association, and County Clerks in the summer of 1998. Several members of the Commission participated in a session at the 1998 Washington Judicial Conference reporting on their work and future plans. The judges attending this session were given an opportunity to comment and ask questions about the Commission's progress. Comments received from the participants were distributed and discussed at the conference's closing session. These comments were also reviewed by the Commission and its subcommittees. Individual members of the court community were kept informed of the Commission's work through a quarterly newsletter to all judges, commissioners, clerks, administrators, members of the Commission and subcommittees and members of the public who expressed an interest in the Commission's work. An e-mail address was established to provide another avenue for comment on the Commission's activities.

The JEA Commission developed the following mission statement:

*To advance the effective operation of the Washington state Court System by preparing a comprehensive Washington state Court Business Plan that: 1) Identifies the mission and strategic direction for the Washington state Court System, including its core functions; 2) Assesses the adequacy of the Washington state Court System's structure, organization, business practices and recommends an improvement plan; 3) Identifies a preferred model of court funding and provides a detailed strategy for implementing the model; and 4) Recommends a detailed work plan for implementing the improvement and funding plans and subsequently assessing the effectiveness of the plans.*

## Introduction

*continued*

The Commission reviewed past court planning efforts in Washington state as well as the Courts of Limited Jurisdiction Assessment Survey which contained over 100 recommendations for ways to improve the operation of the courts of limited jurisdiction. In an education session, Arthur Andersen Consulting presented the components of effective business planning. A representative from the California Judicial Council reviewed that state's multi-year funding proposal. Dr. Ron Harrison, a management consultant, helped the Commission apply management principles effectively used by other government organizations and the private sector. Reports were presented on the *Trial Court Performance Standards* and the pilot project involving their use in the superior courts in Spokane, Thurston and Whatcom Counties.

# Historical Perspective on Court Improvement Efforts

In recent years, a variety of efforts have been undertaken to explore ways to improve the operation of Washington courts. Typically, these efforts have been led by a "blue ribbon" commission appointed to study a particular problem within the court system. Such commissions have been responsive in nature; once their analysis is completed, however, they have dissolved leaving someone else to implement the recommendations. Although many of these efforts resulted in extensive recommendations for ways to improve the court system, implementation of those recommendations has been limited.

The *Judicial Administration Commission* was formed by the Legislature in 1984 and chaired by Justice James M. Dolliver. The Commission was convened to "evaluate the existing structure of Washington's judicial system, the jurisdiction of each level of court, and the existing means of administering and financing the state's courts and related court services, including probation, family court, court reporting, and juvenile services." The Commission recommended concurrent civil jurisdiction between superior and district courts be eliminated, state funding of superior and district court judges and indigent defense, definition of the responsibilities of presiding judges, and a task force to consider problems of civil court congestion and delay.

The *Commission on Washington Trial Courts* was formed in 1990 by Chief Justice Keith Callow, and chaired by Mr. Bill Gates. The Commission conducted an extensive examination of the trial court reform and concluded that neither "adequate support or organization" existed in the civil and criminal justice system. The Commission recommended the Board for Judicial Administration evaluate models for enhancing the management of the Washington judicial system, strengthening the authority of presiding judges, allowing pro tem judges to sit without consent from parties, and set minimum standards for limited jurisdiction courts.

*Washington Courts 2000* was convened by the Board for Judicial Administration (BJA) in 1992. Chaired by Mr. Bill Gates, the committee recommended expanded membership on BJA from the trial courts, court management groups and citizens, and a majority vote approach to decision making.

The *Courts of Limited Jurisdiction Assessment Survey* was initiated by Chief Justice Barbara Durham and completed in 1997. The

## Historical Perspective On Court Improvement Efforts

*continued*

assessment made over 100 recommendations for operational improvements in district and municipal courts. General recommendations concern the need for judicial system leadership, strengthening the independence of the judiciary, increased state funding, and minimum court operational standards.

In part, the focus of the JEA Commission was re-shaped by its review of the past commissions and study groups which were charged with finding ways to improve the judicial system. One participant suggested the true objective of the JEA should be to set in place a mechanism for *continuous process improvement* so that ad hoc commissions would no longer be necessary. Against the backdrop of numerous past efforts, the JEA began to discuss how to design a structure to enable the judiciary to plan and initiate its own agenda for the future, in an ongoing, rather than reactionary way.

When the reports of previous commissions are reviewed, they present a composite picture of the court system in Washington. Common themes emerged that offered the JEA Commission, particularly the governance subcommittee, an overview of the environment in which the judiciary functions:

- **Threats to judicial discretion and independence**

The perception that judicial independence is at risk is reflected in numerous documents, including the 1998 Assessment of the Courts of Limited Jurisdiction and a 1994 survey of Washington judges. The perception is regularly reinforced by the Legislature by the introduction and passage of bills that seek to direct the business of the courts.

- **Governance and leadership**

In a 1994 survey, 91 percent of judges stated their view that the BJA should coordinate long-range planning and problem solving within the judiciary. The report of the Assessment of Courts of Limited Jurisdiction notes... "the major problems facing the courts of limited jurisdiction can be traced to a lack of effective leadership."

- **Decentralized court system**

When given opportunities to constitutionally reform the judicial system, Washington state citizens have consistently expressed their preference for decentralized, locally autonomous courts. However, recent threats to judicial independence and the growing demands

## Historical Perspective On Court Improvement Efforts

*continued*

placed upon courts have prompted courts to consider ways the judicial branch can become more cohesive in its relationship with the other branches of government - and speak with a single voice -within the context of a decentralized court system. Washington judges have similarly voiced consistent preference for a two-tiered trial court system. In recent years, however, trial court judges have recognized the desirability to operate in coordination on issues of mutual interest.

### • **Access to Justice**

In a 1994 survey of judges, 89 percent said they believe the public finds our courts "intimidating and confusing." Pro se litigants were seen by 93 percent of the responding judges as the source of an increasing demand for services. The growth of diverse cultures in the general population presents additional communication challenges for courts in their efforts to make services accessible to all citizens.

### • **Inadequate resources for courts**

Status-quo budgets in the face of increasing demands on the criminal and civil justice system have led courts to cut corners and reduce services. In the 1994 survey of judges, 81 percent reported that criminal caseloads are transforming the judicial system into criminal law courts, with increased restrictions on the time to resolve civil disputes. Additionally, unfunded mandates diminish the ability of courts to "keep-up."

### • **Public confidence in government**

Public confidence in government institutions has eroded in recent years. In an atmosphere of skepticism and distrust, there is an unprecedented need for courts to be accountable, "user-friendly" and employ sound management practices. Quality assurance through performance measures, professional standards, or other methods for ensuring high levels of professional conduct is insufficient.

### • **Elected judiciary**

An elected judiciary necessitates that judges balance the public's need for information with their own professional obligation to remain neutral and impartial. Judges are called upon to make tough, sometimes unpopular decisions on individual cases, and to exercise innovative leadership in the administration of their courts, while also periodically running for election. The interrelationship of these dynamics is significant.



## Historical Perspective On Court Improvement Efforts

*continued*

- **Rapidly changing environment**

While it is not expected or desirable for courts to frequently change the way they do business as a result of societal pressures, litigants expect courts to resolve their disputes in a responsive way. Some have suggested that specialty courts (family, drug, teen, etc.) may be a reflection of the court system's difficulty in adopting new strategies for effectively resolving disputes. Technology has introduced new expectations that judges will make use of dramatically increasing sources of information in their job as decision-makers. They must be able to access and rely upon data from courts across the state, and they must ensure that court staff are proficient and reliable in using technology to manage the court.

# JEA Subcommittees

Based upon generally accepted business planning principles, the Commission initially established three subcommittees: Core Mission - to identify the existing responsibilities and roles of the courts; Best Practices - to consider ways for courts to assess their business practices and recognize innovation; and Funding - to evaluate various options for seeking additional state revenue while preserving local administration of justice. As the Commission proceeded with its review of previous studies, a fourth subcommittee, Governance, was appointed to evaluate the judiciary's governance and leadership structure.

## **Best Practices Subcommittee**

The Commission charged the Best Practices Subcommittee with the responsibility of assessing the adequacy of the structure, organization, and business practices of the Washington state Court System to fulfill its mission over the next decade, and to recommend an improvement plan for each level of the court system to effectively accomplish its portion of the mission in a cost-effective manner.

The subcommittee took the charge from the Commission and adopted the following mission statement: "To recommend ways for courts to improve the administration of justice for the citizens of Washington." How courts can provide higher levels of service and responsiveness to meet the increasing needs was a major topic of the subcommittee's deliberations.

The subcommittee utilized various resources during its deliberations including:

- *Courts That Succeed: Six Profiles of Successful Courts;*
- *ABA Standards Relating to Court Organization, 1990 Edition;*
- *Courts of Limited Jurisdiction Assessment Survey Report;*
- *Minimum Services for Courts of Limited Jurisdiction, promulgated by the District and Municipal Court Judges' Association;*
- *Trial Court Performance Standards; and*
- *Appellate Court Performance Standards.*

The subcommittee discussed the definition of best practices and efficiency, especially in relationship to courts. The subcommittee agreed on the following definition of efficiency. Without compromising the quality of the just result, the objective is to: 1) increase timeliness, 2) decrease cost, 3) enhance accessibility for appropriate cases and litigants, 4) increase case management, and 5) improve customer satisfaction.

### **Core Mission Subcommittee**

The Core Mission Subcommittee was charged with identifying the roles and responsibilities of the courts. The subcommittee conducted a search of the Washington Constitution, Revised Code of Washington, court rules and orders to compile a list of expectations and the mandatory functions courts must perform. The subcommittee then endeavored to identify primary functions or missions and those which could possibly be performed by some other agency or branch of government.

Following the fall conference session at which judges commented on the summary of what courts do compiled by the subcommittee, the subcommittee met to review those comments received on the summary. It also further identified functions by court level and what areas might be handled by other entities if they are not handled by the courts.

### **Funding Subcommittee**

This subcommittee grappled with finding a solution to the perpetual problem of adequately funding courts within a more broadly underfunded judicial system, particularly, identifying a more fair sharing of all costs between state and local revenue. This subcommittee compiled several funding approaches to support five specific non-discretionary areas of trial court expenses to be borne by the state: indigent defense, judicial salaries, jury fees, expert witness fees and interpreter fees.

Ultimately, the JEA Commission approved the Funding Subcommittee's recommendation contained in the Court Funding and Improvement Act of 1999, otherwise known as SB 5035 and HB 1026. As introduced, the legislation sought to establish a special fund for courts to implement innovative projects, provide 100 percent state funding for district court judicial salaries, benefits for superior court judges and state assumption of costs for trial court indigent defense and juries. Even though the bill failed to pass the legislature, the chair of Senate Ways and Means requested the Chief Justice to convene a meeting with legislative leadership regarding funding needs of the courts and report back to the next legislative session.

### **Governance Subcommittee**

The Governance Subcommittee recommended ways to strengthen the leadership structure of the judiciary - to enable the third branch to manage external influences and initiate change effectively.

The Governance Subcommittee began its work by reviewing how the judicial system sets strategic direction for the courts. The subcommittee concluded that given the current constraints of the BJA's operating procedures and the fact that most current planning focuses on a specific problem identified by a specific group, changes needed to be made to the BJA's structure and operating procedures.

The Governance Subcommittee reviewed the work of previous commissions that were charged with examining the leadership structure of the Washington judiciary. The subcommittee evaluated the statutorily established role of the Office of the Administrator for the Courts and its effectiveness in supporting the judiciary. The structure and role of other leadership groups within the judicial branch, such as the Judicial Information System Committee and the Board for Court Education were also considered as effective leadership models. Finally, the subcommittee invited previous members of the Board for Judicial Administration to provide the subcommittee with their observations and suggestions for improving the effectiveness of BJA.

# Recommendations and Commentary

## 1

### **Mission of the BJA**

The mission of the Board for Judicial Administration should be revised to emphasize a governance versus "representative" purpose.

The full Commission reviewed and extensively discussed the four subcommittee reports (see Appendix A) at a two-day retreat on May 20 and 21, 1999.

The Commission concluded that changes in the governance and leadership structure of the Washington judiciary were essential to effective future direction of the state court system and made the following findings and recommendations.

#### **COMMENTARY:**

The Commission determined that an essential component of an effective organization is its ability to initiate and execute its own agenda. The only way for a decentralized organization like the Washington state judiciary to cast a single vision is through an effective governance structure authorized to adopt policies and provide strategic leadership. The Board for Judicial Administration will not have any inherent executive or legislative powers over individual judges. Thus it must be recognized that "governance" as used in this report must be understood to mean policy making and developing strategic leadership, vital functions, both wholly wanting at the present time.

While the Board for Judicial Administration was created to bring the various judicial constituencies together to formulate policy on issues of mutual interest, the Board has historically represented the various judicial stakeholder groups (Supreme Court, Court of Appeals, Superior Courts and the District and Municipal Courts). The current representative mind set results in the Board's diffused allegiance and reluctance to attack controversial issues. When interviewed, past Board representatives observed that trial court judges basically fear Supreme Court control, either in terms of state funding or through the Office of the Administrator for the Courts. The Board for Judicial Administration has been viewed as an instrumental of the Chief Justice acting on behalf of the Supreme Court. Even though the Board for Judicial Administration rules articulates a "policy" or governance purpose, its actual role appears, at times, to be "advisory" to the Supreme Court. The Commission considered whether or not to recommend abolishing versus revitalizing the Board for Judicial Administration including changing the name of the Board.

# 1

*continued*

## **Mission of the BJA**

# 2

## **BJA Leadership**

**2.1 The Chief Justice of the Washington state Supreme Court should chair the Board for Judicial Administration. The co-chair should be elected from the membership.**

**2.2 The duties of the chair and co-chair should be clearly articulated in the bylaws, including the co-chair's role as chair of the long-range planning committee.**

**2.3 The chair in consultation with the co-chair should establish the meeting agenda and meetings should be held bi-monthly. The chair and co-chair should each have independent authority to convene meetings of the BJA.**

After lengthy discussions, the Commission determined that restructuring the existing Board would produce the most effective result. The Board for Judicial Administration's mission and the court rule creating it should redefine its allegiance to a larger community - the judiciary at large - and clearly articulate a governance versus advisory role. The structure of the Board for Judicial Administration must enable the judiciary to speak with one voice without squelching dissent or pretending unanimity. Toward that end, the new mission statement should provide for continuity of membership and criteria for appointment emphasizing accountability to the judiciary at large.

### **COMMENTARY:**

While the Washington Constitution establishes a hierarchy of courts for the purpose of appeal, responsibility for policy must reside within the Board for Judicial Administration if the judiciary is to function as an effective branch of government. The position of Chief Justice carries honorific as well as actual governance responsibilities (RCW 2.56). The chair's job requires skilled handling of process and an ability to fairly, but firmly, lead a group to confront and welcome diversity of opinion. After discussion, the Commission agreed that the Chief Justice should continue to be designated as chair of the Board for Judicial Administration.

The Commission also determined that conferring additional authority on the "co-chair" will increase the trial court judges' confidence in the role of the Board for Judicial Administration. Electing a co-chair from the Board's membership contributes to developing greater trust among court levels. Additionally, designating the co-chair to lead the long-range planning process further reinforces the Board's policy role and extends the message of speaking with one voice.

Bi-monthly, daylong meetings would allow Board committees to pursue their objectives and focus policy issues for Board action. In addition, moving Board meetings to Mondays rather than Fridays would allow a weekend for members to review materials.

Finally, the Commission determined that the Board should report annually at the Washington Judicial Conference.

# 3

## Standing Committees

**3.1 At least three standing committees should be created: Long-range Planning (including funding issues); Core Mission/Best Practices; and Legislative.**

**3.2 Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an "as needed" basis.**

**3.3 The chair, with the concurrence of the co-chair, shall nominate for the Board's approval the members and chairs of the various Board committees. Committee membership should be open to citizens and experts from the private sector.**

# 4

## Judicial Participation

**In order to encourage judges' participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time.**

# 5

## Staff Support

**The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.**

### COMMENTARY:

Committees should assist the Board in achieving its mission and implementing the approved long-range plan. Committees can work simultaneously to identify problems and formulate solutions for Board action. Each committee should study, deliberate, formulate and finally, recommend a course of action to the Board for Judicial Administration. Committee work should result in recommendations for consideration and adoption by the Board. Committees should do pre-Board work. If the Board is to deliberate and adopt policy positions, it will do a better job if presented with options.

The committees should produce alternative/implication reports for the Board's consideration. The Long-range Planning Committee should include representatives from the Judicial Information System Committee, the Court Management Council and the Board for Court Education. The Board for Judicial Administration should use committee reports, surveys and studies to form its decisions. As part of the long-range planning effort, the Board should review and comment on the OAC Business Plan.

### COMMENTARY:

The size of courts and judicial workload severely limits the ability of judges to serve on the Board for Judicial Administration and its committees. Necessary changes in statutes or court rules should establish the ability for judges to be granted equivalent pro tempore time to allow for participation in the Board's work. The Office of the Administrator for the Courts should be directed to include the Board for Judicial Administration pro tempore costs in its operating budget.

### COMMENTARY:

Providing staff support to the Board for Judicial Administration and its committees should be included in the Office of the Administrator for the Courts' Business Plan as a core mission. The Office of the Administrator for the Courts should be responsible for the timely distribution of the agenda, minutes and materials prior to Board meetings.

# 6

## **Board Membership**

**6.1 In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include:**

**Appellate Courts**  
**Supreme Court - 2**  
**(one being the Chief Justice)**  
**Court of Appeals - 3**  
**Superior Courts - 5**  
**(one being the President)**  
**District & Municipal Courts - 5**  
**(one being the President)**  
**Washington state Bar**  
**Association - 2 (non-voting)**  
**State Court Administrator**  
**(non-voting)**

**6.2 Members should serve four-year staggered terms based upon a selection process established by their respective associations. President judges should serve for their term of office.**

**6.3 The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect ethnic and gender diversity as well as geographic and caseload differences.**

### **COMMENTARY:**

If the judiciary is to "speak with one voice" the Board for Judicial Administration must truly represent the overall system interests rather than the agenda of individual court levels. The Judicial Information System Committee (JISC) was identified as a governance model that works well and is supported by all the various constituent groups within the court system.

Members should be selected by their affiliate associations and have explicit responsibility to the judiciary as a whole, not to their respective constituencies. Each court level should determine how to select its representatives with an attempt to achieve diversity. The BJA bylaws should be amended to remove any reference to association officers.

Board for Judicial Administration members should serve four-year staggered terms with the ability to be reappointed. In addition, the Commission discussed adding two public, non-voting members and two non-voting members of the Court Management Council, one being a County Clerk. The Commission deferred the decision to the restructured BJA and noted that public members, county clerks and court administrators should be appointed to the various Board committees and work groups.



# 7

## Voting

**7.1 All Board for Judicial Administration decisions will be made, whenever possible, by consensus. Final decisions should be made on the basis of majority vote of those present and voting with the requirements that there be at least one affirmative vote from each level of court.**

**7.2 Eight voting members will constitute a quorum, provided each court level is represented. Telephone or electronic attendance should be permitted but no proxy representation should be allowed.**

# 8

## Best Practices

**8.1 The Board for Judicial Administration should recognize the court performance standards and charge the Core Mission/Best Practices standing committee with the integration of these standards into daily court operations.**

### COMMENTARY:

The existing unilateral "right of veto" perpetuates the balkanized, representative nature of the Board for Judicial Administration. Preferably, all positions would be reached by consensus but final decisions could be determined by a majority vote after significant deliberation.

The adoption of majority vote is a dramatic departure from past procedures. The requirement of including one or more judges from each court level in any vote provides a meaningful check and balance. Also, as a practical matter it is unlikely that any issue will be badly or arbitrarily decided because of the recognition, shared by all, that ultimately the decisions of the Board for Judicial Administration and the effectiveness of the Board itself must rest on the twin piers of their intrinsic merit and a broad consensus support from constituent judges.

### COMMENTARY:

The Commission recommends the BJA accept the Trial Court Performance Standards (TCPS) as listed in Appendix B to serve as an aspirational goal for all courts. The TCPS and the measurement tools associated with the standards are a valuable management and planning tool for judicial leaders who, increasingly, are being held accountable for the performance of courts. Benefits of the TCPS include: 1) the development of a common language to describe and communicate court functions and activities; 2) a framework for understanding the work of the courts; and 3) a means for individual courts to self-assess, self-improve, and improve accountability. The framers of the Trial Court Performance Standards indicate that, "The use of the standards as a basis for cross-court comparisons or as part of a national or regional accreditation of State courts is not intended or recommended." The standards are also "not intended, nor are they appropriate, for gauging the performance of individual judges."

The Commission recommends the BJA Core Mission/Best Practices Standing Committee identify the cost and obstacles that come with implementing best practices. Obtaining initial seed money to implement innovative procedures and subsequently evaluating the procedure to determine if it is indeed a best practice is one of the obstacles identified. Limitations of judicial and staff resources both at the state and local level are also obstacles in implementing the TCPS.

## Best Practices

**8.2 The Board for Judicial Administration should develop an education program for judges and courts on the usage of court performance standards to improve court operations.**

**8.3 The Board for Judicial Administration should establish within the Core Mission/Best Practices standing committee a clearinghouse for sharing best practices ideas.**

It is important to acknowledge that there is not one best practice for all courts. The size of the court, the geographic area the court serves, and the demographics of the community are some of the things which might impact the best practices of a court. The best practices that are recommended need to ensure the quality of justice is not diminished but rather enhanced by the best practice.

### **COMMENTARY:**

The Commission recommends a BJA-sponsored education program to review the Trial Court Performance Standards (TCPS) with a leadership team from each court. The objective of the program would be: 1) to provide information and training on the use of the measurement system associated with the standards as developed by the National Center for State Courts; and 2) to assist courts in integrating the standards and measurement system into the daily court operations. Such a session was recommended by a participant at the Commission session at the 1998 Washington Judicial Conference. It was also clear from the feedback of the participants that such an education program would be helpful as many indicated they did not know much about the performance standards and measurement system.

### **COMMENTARY:**

The Commission recommends the establishment of a clearinghouse to evaluate proposals for innovative programs and best practices; assist in funding them; assess results of pilot programs; and disseminate these programs within the court community.

Innovative programs and best practices would be referred to the clearinghouse for recognition as a best practice. The standing committee would prepare a written description of the project, review any evaluations of the project, and if none, develop and conduct an evaluation of the project. An annual report of projects funded and/or certified as best practices would be prepared and disseminated to judges, court managers, and legislators.

## **Core Mission**

**9.1 The Board for Judicial Administration standing committee on Core Mission/Best Practices should conduct a more comprehensive study of the core and noncore function of the courts.**

**9.2 The standing committee shall conduct an evaluation of the core mission of courts on an annual basis and report its findings to the Board for Judicial Administration.**

### **COMMENTARY:**

The Commission recommends a standing committee of the Board for Judicial Administration use the case categorization developed by the Core Mission Subcommittee as a starting point for a more comprehensive study of the core and noncore functions of the courts. That subcommittee emphasized in its final report to the full Commission that it had to this point only segregated functions, as either core or noncore functions, which courts are required to perform by either the constitution or the legislature. This is only a first step in examining what courts do. A true assessment of the functions must now follow using the criteria set forth herein.

The standing committee, in the interest of improving the administration of justice, should accept the categorization of case types proffered by the Core Mission Subcommittee to determine: 1) why courts do what they do; 2) whether courts should be performing a particular function; and 3) what efficiencies could result from implementing changes with respect to functions which courts perform. In undertaking an exploration of these issues, there should be an examination of: 1) the real mission of the courts, justice and the highest and best use of resources available to the judiciary; and 2) what process should be used to identify what ought to be the core mission of the courts, regardless of the present statutory or constitutional scheme setting forth what functions courts are to perform. The recommendation should also: 1) identify the entity which would assume the responsibility for performing the function if it were transferred from the judiciary; 2) prioritize the functions which courts would continue to perform; 3) use the established list of priorities in funding discussions with the legislature; and 4) factor access to justice considerations into this assessment.

### **COMMENTARY:**

Improvement in the judicial process will be facilitated by a continuing evaluation of whether functions performed by the courts are appropriate, would be more efficiently performed by another entity or are no longer needed. This evaluation process must be conducted on an annual basis to ensure that courts are vigilant in putting resources to the best use. The annual report shall be made to the Board for Judicial Administration.

The Commission strongly believes the utility of this assessment can only be preserved if the review conducted is comprehensive and timely. In addition to having the assessment conducted on a scheduled recurring basis, attention should be given to ways in which technology can be used to enhance the performance of the courts.

## **Adequate Resources for Courts**

**10.1 The Board for Judicial Administration shall assume the responsibility for assessing the adequacy of resources that are available to the Washington state Court system to fulfill its mission.**

**10.2 The assessment of resources required for the Washington state Court system must involve an ongoing assessment of the core mission and best practices used by courts.**

**10.3 The Board for Judicial Administration should develop an overall funding strategy for the judiciary, consistent with the long-range plan including consideration of Initiative 62.**

### **COMMENTARY:**

In 1997 the Board for Judicial Administration sponsored focus group discussions throughout the state asking judges to identify problems in the court system. The lack of adequate resources emerged as one of the major issues facing the courts. It was noted that in many counties the law enforcement and jail costs were eroding the ability to meet the resource needs of the courts. Criminal matters consume nearly all of the available court resources. In most, if not all locations, civil cases are delayed for months and sometimes for years before a trial date is confirmed. The trial judges participating in the focus groups identified two specific issues: 1) they felt the state should share in the costs of courts to a greater degree; and 2) they felt the counties should be relieved of costs that are mandated by public law.

### **COMMENTARY:**

Commission members concluded that adequate funding for the courts is directly linked to the ability of courts to be accountable for their operations. While efficiency should never take priority over quality, courts must demonstrate their commitment to continual improvement and finding better ways to be responsive to their customers.

### **COMMENTARY:**

With the approval of the Commission, legislation titled "The Court Improvement Act of 1999" was drafted and introduced into the 56th legislature. The Act embodied the principles of local option and state funding for judicial salaries, as well as state responsibility for other non-discretionary court programs. The legislation was sponsored in both houses of the legislature by the Chairs of the Judiciary committees. After hearings and numerous amendments, neither bill was passed by the legislature.

However, the Act did stimulate significant discussion about court funding. Legislative leaders have requested the Chief Justice to convene a work group to continue the work initiated by this Commission. Clearly the legislative leaders believe the Board for Judicial Administration should appoint a standing committee to develop a continuing plan for court funding. To quote one leader of the legislature "I, like you, have been concerned about the lack of funding for the state's trial courts and the corresponding impact on access to justice for some time now. I am pleased that more people are now becoming engaged in looking for solutions to these problems, and I would like these efforts to continue."

## **Adequate Resources for Courts**

10.4 The Board for Judicial Administration should evaluate the desirability of the state assuming greater responsibility for funding mandated judicial services.

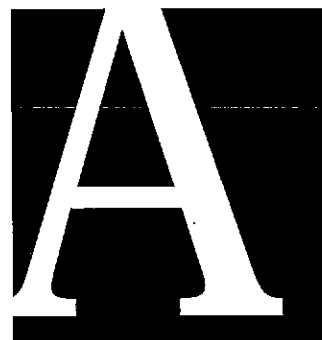
## **Conclusions**

### **COMMENTARY:**

The Commission recognized that judges have differing views about the most appropriate sources of stable and adequate funding for the court system. The work initiated with the 1997 focus groups should continue - judges should be given opportunities to consider options for greater state assistance while preserving local autonomy.

The Commission determined that evolution was preferable to revolution and small steps ultimately arrive at the same destination. But every journey begins with a single step. These recommendations identify steps the judiciary must take to become an effective organization setting its own agenda. Effective governance is essential to an effective judiciary.

# Appendix





# Best Practices Subcommittee

## Final Report

### Introduction

The Commission charged the Subcommittee with the responsibility of assessing the adequacy of the structure, organization, and business practices of the Washington state Court System to fulfill its mission over the next decade, and to recommend an improvement plan for each level of the court system to effectively accomplish its portion of the mission in a cost-effective manner.

The Subcommittee adopted the following mission statement: "To recommend ways for courts to improve the administration of justice for the citizens of Washington." How courts can provide higher levels of service and responsiveness to meet the increasing needs was a major topic of the Subcommittee's conversations.

The membership of the Subcommittee included five superior court judicial officers: Judges Susan Cook, Michael Donohue, Larry McKeeman, and Commissioner Fred Aronow. There were two representatives of the District and Municipal Court Judges' Association: Judges James Riehl and Greg Tripp. There were four county clerks on the Subcommittee: Joyce Denison, Lorena Hollis, JoAnne McBride, and Siri Woods. Three superior court administrators were on the Subcommittee: David Hardy, N.F. Jackson, and Michael Planet. There were three district court administrators on the Subcommittee: Maury Baker, Linda Bell, and Theresa Doty. Lish Whitson represented the Bar Association. The other members of the Subcommittee included: Bruce Dammeier, Doug Martin, Jim Mahoney, Mary Pat Treuthart, and James Vache.

### Process of Review

The Best Practices Subcommittee held meetings on the following dates: February 23, 1998; March 27, 1998; April 17, 1998; May 29, 1998; June 26, 1998; July 24, 1998; August 28, 1998; and September 25, 1998.

The Subcommittee utilized various resources during its deliberations including:

*Courts That Succeed: Six Profiles of Successful Courts;*  
*ABA Standards Relating to Court Organization, 1990 Edition;*  
*Courts of Limited Jurisdiction Assessment Survey Report;*  
*Minimum Services for Courts of Limited Jurisdiction, promulgated*



*continued*

## **Process of Review**

*continued*

## **Subcommittee Findings and Recommendations**

by the District and Municipal Court Judges Association; Trial Court Performance Standards; and Appellate Court Performance Standards.

The Subcommittee discussed the definition of best practices and efficiency, especially in relationship to courts. The Subcommittee agreed on the following definition of efficiency. Without compromising the quality of the just result, the objective is to: (1) increase timeliness, (2) decrease cost, (3) enhance accessibility for appropriate cases and litigants, (4) increase case management, and (5) improve customer satisfaction.

The Subcommittee determined that courts need benchmarks and measurement tools to ensure efficiency and promote best practices. It also recognized that funding for courts is limited and used for the day-to-day functioning of the courts. There is little extra money available to try new innovative approaches. Therefore, the Subcommittee adopted the following recommendations.

1. The Best Practices Subcommittee recommends that the Commission on Justice, Efficiency, and Accountability adopt, in concept, the Trial Court Performance Standards promulgated by the United States Justice Department, Bureau of Justice Assistance, as Court Performance Standards for the state of Washington as Guiding Principles for Washington state Courts at every court level. The Commission should recommend the adoption, in concept, of these standards by the governing bodies of each level of the courts in Washington state. The Court Performance Standards are listed in Appendix B.
2. The Best Practices Subcommittee also recommends the establishment of a Court Improvement Clearinghouse to evaluate proposals for innovative programs and best practices, which comply with the Guiding Principles for Washington state Courts; assist in funding them; assess results of pilot programs; and promulgate those programs to the court community. The Court Improvement Clearinghouse concept is described in Attachment A.

## Conclusions

The findings and recommendations of the Subcommittee are submitted for the consideration of the Commission on Justice, Efficiency, and Accountability. The Subcommittee members appreciate the opportunity to provide the Commission with the views of the representatives of the judiciary, court management, Bar, academia, and the public.

*Michael E. Donohue*  
*Chair, Best Practices Subcommittee*

## Actions needed to implement recommendations

### **Best Practices Subcommittee**

<b>Recommendation</b>	<b>Action</b>	<b>Responsible for Action</b>
Adopt the Trial Court Performance Standards (TCPS) as Guiding Principles	Pass Resolution adopting TCPS	Board for Judicial Administration
Establish Court Improvement Clearinghouse	Establish Clearinghouse	Board for Judicial Administration
	Request funding for projects	Board for Judicial Administration

# Court Improvement Clearinghouse

## *Draft Proposal*

### **PURPOSE**

The Court Improvement Clearinghouse is proposed as a means for identifying innovative programs and "best practices" in the Washington State courts, providing funding to evaluate and implement innovative programs which courts can apply for, and monitoring these programs as they grow and expand to other courts.

### **STRUCTURE AND ORGANIZATION**

The Court Business Advisory Committee, supported by the Office of the Administrator for the Courts (OAC) Court Services and/or Research and Information Services, would be the "staff committee." Recommendations would be forwarded to the Board for Judicial Administration (BJA) and Court Management Council (CMC) for approval.

### **FUNDING**

The Court Improvement Clearinghouse should be funded from state appropriations, federal grant moneys, and a private endowment. The endowment would be created through the efforts of private volunteers to raise private funds from individuals, foundations, and corporations. The Clearinghouse would use these moneys as grants to initiate new programs in state courts using established criteria.

### **PROCEDURES**

1. Innovative programs and best practices are referred to the clearinghouse for adoption as a best practice. Referrals can be made by:

- Judges and staff from courts who have implemented a program, or
- Members of the bar, academia, or public who have heard of or seen an innovative program.

2. Judges and staff from courts may apply for funding to implement an innovative program. Funding would be made available only to state courts.

3. The clearinghouse reviews the referral or request for funding and sends it to the staff group to:

- Prepare a written description of the project,
- Review any evaluations of the project, and
- Develop and conduct an evaluation of the project.

4. Following the review, staff will present a report and recommendation to the clearinghouse as to whether the program should be adopted as a "best practice" or the requested funding should be provided. Criteria to be applied in making the recommendation will include:

- Whether the project has measurable performance indicators,
- Whether the project has been demonstrated to be cost effective, and
- Whether the project is transferable to other courts.

5. The clearinghouse will recommend to the BJA and the CMC that the project be adopted as a best practice and is eligible for court improvement funds.

6. OAC disseminates information to courts on how to apply for funding to implement court improvement projects.

7. OAC prepares and disseminates an annual report of projects funded and/or certified best practices to judges, court managers, and legislators.

# Core Mission Subcommittee

## Final Report

### Introduction

The mission statement for the Core Mission Subcommittee is:

*Many organizations suffer from the "Christmas tree syndrome" in which more and more responsibilities are hung on the original structure until it bends or breaks under the added weight. The judicial branch of government is no exception. Its responsibilities have multiplied over time as legislators, citizens, attorneys and conscientious judges have looked for ways to resolve an ever-increasing number and variety of disputes. We have reached the point where we must ask ourselves which of these responsibilities and roles properly belong in the judicial system. This subcommittee will evaluate the responsibilities the Constitution and laws require our courts to discharge as well as those we have voluntarily accepted or imposed on ourselves over time. We will then make recommendations for refining the role the judiciary should be expected to successfully fulfill.*

The purpose of courts is to resolve disputes. In order to keep courts focused on this purpose, the Core Mission Subcommittee attempted to delineate core and noncore court functions; that is, to separate nonessential functions from those functions which courts perform in order to carry out their essential purposes or because the Constitution or the Legislature requires the courts to perform. The subcommittee recognizes that not all levels of court function in the same way. Even at the same level of court, there will be variations in practice and different meanings applied to the same terms by courts around the state. For instance, how one district court handles probation services may differ significantly from the practice or custom in other counties. This may also be true for superior courts in areas such as calendaring and family court services. These differences are not reflected in this summary of court functions.

In addition to defining core and noncore functions, we have reviewed all court functions to assess whether they might be accomplished less expensively or more efficiently by other entities such as administrative law judges or court commissioners and to determine how much value there is in having courts perform them. In many cases, as this

subcommittee has, the Commission will have to verify the burden on the justice system against the need for the high quality of decision making that courts can offer.

This document is intended to assist the full Commission and other subcommittees in making recommendations to improve the efficiency of the courts. We anticipate that it will be used as a starting point for making decisions and recommendations and will therefore continue to evolve. Not all members of the subcommittee agreed on all points in the report, but it does represent a consensus of those participating in the meetings.

The following persons served on the Core Mission Subcommittee:

Honorable Susan R. Agid, Chair  
Court of Appeals, Division I

Honorable Rebecca M. Baker  
Stevens/Ferry/Pend Oreille Counties Superior Court

Honorable Craig J. Matheson  
Benton/Franklin Counties Superior Court

Honorable R. Joseph Wesley  
King County Superior Court

Honorable David Frazier  
Whitman County District Court

Honorable Barbara L. Linde  
King County District Court, Seattle Division

Honorable William C. Stewart  
Hoquiam Municipal Court

Honorable Patricia A. Chester  
Stevens County Clerk

Honorable Pam Daniels  
Snohomish County Clerk

Honorable Gloria Perchynski  
Ferry County Clerk

Honorable Siri Woods  
Chelan County Clerk

Ms. Sheryl Willert  
Attorney at Law, Seattle

Ms. Deborah Norwood  
State Law Librarian

## **Process of Review**

The Core Mission Subcommittee began meeting in March 1998 and met three more times until November 1998. In addition to these meetings, the subcommittee circulated working discussion drafts for comment and reviewed the comments received at the 1998 Fall Judicial Conference. The subcommittee chair, together with the other two subcommittee chairs, met with the leadership of the judicial associations and the county clerks to discuss our charge and the progress we were making as well as participating in the plenary discussion at the 1998 Fall Judicial Conference at which the work of the Commission on Justice, Efficiency and Accountability was discussed.

During its meetings the subcommittee drafted and revised a summary of what courts do which was broken down by the areas in which courts function. The final version of this document is included here in the section entitled "Findings and Recommendations".

The subcommittee consulted various resources including:  
WA Const. art. IV  
RCW Title 2—Courts of Record  
RCW Title 3—District Courts—Courts of Limited Jurisdiction  
1994 WA State Judicial Survey  
1994 Court Managers' Survey  
Judicial Council of CA—Profile—Committees—Training  
and Education—AOC  
Trial Court Performance Standards with Commentary  
ABA Standards Relating to Court Organization  
NCSC National Conference on the Future of the Judiciary

## **Findings and Recommendations**

The subcommittee separated the functions performed by the courts into these six function areas:

- civil cases
- criminal cases
- non-criminal cases involving the government
- reviewing cases on appeal
- administration
- regulating the practice of law

Functions are further segregated by delineating them as either core or noncore and noting the level of court performing each of the functions or hearing a particular type of case. Finally, each function category, except hearing appeals and regulating the practice of law, concluded with a listing of those areas which the subcommittee thinks could be handled by another entity.

*continued*

## **Findings and Recommendations**

*continued*

### **Function 1: Deciding civil cases between private litigants (Courts of Original Jurisdiction).**

This function involves applying laws to achieve a just resolution of a disagreement between two parties, neither of which generally is a governmental entity.

This function involves cases involving property rather than life or liberty.

This function is sometimes performed, at least in part, by non-governmental entities such as non-judicial resolution of disputes, including alternative dispute resolution centers, private arbitration and private mediation.

The steps involved in this function include: discovery, motions, contempt, ex parte practice, jury trials, bench trials, final decisions, and enforcement of judgments.

#### **Categories of cases include:**

Torts (Superior and District Courts)

Contracts (Superior and District Courts)

Property rights (title to property, landlord-tenant issues, liens)  
(Superior Court for property rights affecting title and District Court for landlord-tenant issues)

Family law (marriage, dissolution, adoption, paternity)  
(Superior Courts)

Probate/Guardianship/Settlement of minor's claims (Superior Courts)

Name Changes (Superior and District Courts)

Impound Hearings (District Courts)

Small Claims Appeals (de novo) (Superior Courts)

Private Writs/Injunctions (Superior Courts)

Custodial Habeas Corpus (Superior Courts)

Antiharassment/Protection Orders (Superior and District Courts)

Courts that handle these matters through trial:

Superior courts

District courts (including small claims departments)

Municipal courts

Functions performed by courts but not necessarily at the core of this function include: arbitration, settlement conferences, mediation, court facilitators, monitoring guardianships, family court services, wedding ceremonies.

*continued*

## **Findings and Recommendations**

*continued*

Areas which might be handled by another entity (arranged according to those having the lowest impact on the courts' caseload to those having the highest):

Small claims (District Court)  
Performing weddings (All Court Levels)  
Name changes (except minors) (Superior and District Courts)  
Emancipation petitions (Superior Courts)  
Impound hearings (District Court)  
Monitoring guardianships (Superior Court)  
Family law (except matters involving children) (Superior Court)

### **Function 2: Deciding criminal cases.**

This function involves resolving cases where the government accuses persons and the justice system's role is to determine guilt, impose punishment, and set restitution.

It involves issues of life and liberty (incarceration, conditions of release, etc.), adult and juvenile, as well as payments for restitution, fees and fines.

The steps involved in this function include all types of warrants, authorizing interceptions of communication, competency hearings, pre-trial appearances (e.g., probable cause, assigning counsel, arraignments, bond hearings), extradition (Superior Court), discovery, motions, bench trials, jury selection/trials, determinations of guilt/acquittal, decline hearings (Superior Court), post-trial matters (e.g., sentencing, attorneys fees in successful self-defense cases, sentencing and probation violations), contempt, special inquiry proceedings (Superior Court). (Unless indicated otherwise, these functions are performed by Municipal, District and Superior Courts.)

Functions performed by courts but not necessarily at the core of this function: coroner's inquests (RCW 36.24.160) (District and Superior Courts), diversion (Juvenile—Superior Court and Alternative Disposition—Municipal and District Courts), probation, counseling, detention, probation supervision. (Unless indicated otherwise, these functions are performed by Municipal, District and Superior Courts.)

Areas which might be handled by another entity:  
Detention (Delegate first)  
Probation supervision and counseling (Municipal and District Courts) (Delegate second)



*continued*

## **Findings and Recommendations**

*continued*

Indigency screening for court-appointed counsel  
Returning firearms to felons  
Coroner's inquest (Study standardization of practices)  
Diversion (Already out of court system except some staff monitoring)

### **Function 3: Deciding non-criminal cases involving the government.**

These functions generally involve less governmental intrusion than in criminal cases but more intrusion than in general civil cases involving only private litigants. They may include restrictions which involve loss of liberty or civil rights.

Mental commitment hearings (Superior Courts)  
Alcohol commitment hearings (Superior Courts)  
Sexual predator commitment hearings (Superior Courts)  
Juvenile court matters: (Superior Courts)  
    Children in Need of Services (CHINS) and  
    At Risk Youth (ARY) cases  
    Dependency petitions  
    Termination of parental rights/guardianship  
    Truancy  
Civil infractions (Municipal and District Courts)  
    Traffic  
    Natural resource  
    Commercial vehicle  
    Boating  
Restraining orders (Municipal, District and Superior Courts)  
Property seizure/forfeiture/impoundment [drug-related (Superior Court), DUI-related (Municipal, District and Superior Courts), firearms (Municipal, District and Superior Courts), animals (District Courts)]  
Paternity (Superior Court)  
Eminent domain (Superior Court)  
Enforcement of regulations/election/recall cases (Superior Court)  
Nuisance abatement (Superior Court)  
Taxpayers suits (Superior Court)  
Writs involving the government (Superior and Appellate Courts)  
Sexually transmitted disease hearings (Superior Court)

*continued*

## **Findings and Recommendations**

*continued*

Areas which might be handled by another entity:

Truancy (Has resulted in high increase in workload. Delegating should be given highest priority.)

Civil infractions (Incentives should be explored to encourage people to pay fines early or otherwise ensure compliance to eliminate the need to use the court system to have fines reduced.)

### **Function 4: Reviewing cases on appeal.**

Superior court decisions being reviewed in appellate courts (RAP)

Limited jurisdiction court decisions being reviewed in superior and appellate courts (e.g., RALJ, RAP, small claims de novo trials)

Agency actions being reviewed in superior court (e.g., WAPA, LUPA, L&I)

PRPs and reference hearings (Court of Appeals and Superior Courts)

Federal court certification of questions to Supreme Court

### **Function 5: Administration.**

#### **Core Functions**

Employ staff

Supreme Court Clerk's Office

Prepare and implement budgets

Receive, transmit and account for funds

Provide security

Prepare, maintain and store records of case activity and judicial operations

Coordinate and share data (JIS)

Maintain state law library (Supreme Court)

Develop operational policies, including calendar management

Propose, review and adopt rules governing judicial matters

Reporting requirements (e.g., errors and omissions in the law, wiretap reports, PDC, sentencing and caseload statistics)

Jury Management (e.g., orientation, excusing from service)

Reporter of Decisions

#### **Noncore functions currently performed by the court system**

Pursue adequate funding for court operation

Educate judges and judicial staff

Assist the Legislature and public in getting information from and about the court system, including judicial impact of legislation

Participate in the Legislature's enactment of laws

*continued*

## **Findings and Recommendations**

*continued*

Issue ethics advisory opinions  
Maintain county law libraries  
Managing GAL programs (Superior Court)  
Building and space management  
Individual caseflow management (except speedy trials in criminal cases)  
Meetings of professional organizations and others related to the court operations and funding (e.g., executive and legislative branches, prosecutors, defense counsel, law enforcement, public, DOL, DOC, jails, and media)

Areas which might be handled by another entity (arranged according to those having the highest impact to the lowest):

Security  
Maintaining county law libraries  
Jury administration (e.g., summoning pool)  
Supreme Court Clerk (Const. allows legislature to make elected office)  
Receiving, transmitting and accounting for funds  
Building and space management  
In all areas efficiency can be improved. Explore ways to establish centralization or standardization.

### **Function 6: Regulating attorneys (primarily through the Bar Association)**

The Supreme Court sets the qualifications for admission of attorneys and oversees the Bar Association's activities, which includes licensing and lawyer discipline.

The Supreme Court oversees the programs under which non-attorneys can undertake activities usually reserved for attorneys: Limited Practice Officers (for real estate transactions), Non-attorney Judges and Court Commissioners (GR 8).

**Conclusion**

The findings and recommendations of the subcommittee are submitted for the consideration of the Commission on Justice, Efficiency and Accountability. The subcommittee members appreciate the opportunity to provide the commission with the views of the representatives of the judiciary, clerks and Bar.

I also appreciate having the opportunity to chair this subcommittee. I recognize the hard work and commitment which the subcommittee members have put into this undertaking. This report is a collaborative product of all of the members of the subcommittee and would not have been generated without the efforts of the individual members of the subcommittee.

*Respectfully submitted,  
Susan R. Agid*

**Actions needed to implement recommendations****Core Mission Subcommittee**

<b>Recommendation</b>	<b>Action</b>	<b>Responsibility</b>
1) <i>Deciding civil cases between private litigants</i> <ul style="list-style-type: none"> <li>• Small Claims</li> <li>• Performing Weddings</li> <li>• Name changes (except minors)</li> <li>• Emancipation petitions</li> <li>• Impound hearings</li> <li>• Monitoring guardianships</li> <li>• Family law (except involving minor)</li> </ul>	RCW Chap. 12.40 RCW 26.04.050 RCW 4.24.130 RCW Chap. 13.64 RCW Chap. 46.55 RCW Chaps. 11.88 & 11.92 RCW 26.12.010	Legislature
2) <i>Deciding Criminal Cases</i> <ul style="list-style-type: none"> <li>• Detention</li> <li>• Probation supervision and counseling</li> <li>• Indigency screening for court appointed counsel</li> <li>• Returning firearms to felons</li> <li>• Coroner's Inquest</li> </ul>	RCW 9.94A.270, 10.64.120  RCW 10.101.20  RCW 9.41.047, 9.41.098 RCW 36.24.160	Legislature
3) <i>Deciding non-criminal cases involving the government</i> <ul style="list-style-type: none"> <li>• Truancy</li> <li>• Civil Infractions</li> </ul>	RCW 28A.225.090 RCW Chap. 7.80	Legislature

# **Funding Subcommittee**

## **Final Report**

### **Subcommittee Charge/Mission Membership**

The Commission charged the subcommittee with the responsibility of assessing the adequacy of the resources including funding of the Washington state Court System to fulfill its mission over the next decade and to recommend a funding strategy. In 1997 the Board for Judicial Administration sponsored focus group discussions throughout the state asking judges to identify problems in the court system. The lack of adequate resources emerged as one of the major issues facing the courts. It was noted that in many counties the law enforcement and jail costs were eroding the ability to meet the resource needs of the courts. Criminal matters consume nearly all of the available court resources. In most, if not all locations civil cases are delayed for months and sometimes for years before a trial date is confirmed. The trial judges participating in the focus groups identified two specific issues: first they felt the state should share in the costs of courts to a greater degree; and secondly, they felt the counties should be relieved of costs that are mandated by public law.

The membership of the subcommittee included the following; Judges Ken Grosse, Faith Ireland, Gary Utigard, Robert McBeth, and Sara Derr; State Representatives Helen Sommers and Tom Huff; State Senator Jim West; County Executive Robert Drewel; Mayor Earl Tilly; Governor's General Counsel Everett Billingslea; Court Administrator Bob Carlberg; Governmental Relations Directors Tom McBride, Michael Shaw, and Debbie Wilke. Other interested persons attended one or more of the meetings. Judge Grosse served as chair of the subcommittee.

### **Process of Review**

The subcommittee held public meetings on the following dates: January 15, 1998; March 26, 1998; April 20, 1998; and May 11, 1998. The committee made liberal use of e-mail and telephone conversations through June, July and August before making its final report to the full commission in September 1998. As noted previously, focus groups identified inadequate funding as a singularly important issue. The subcommittee reexamined data collected from the focus groups and from various governmental entities on court related costs. Both the state and local government levels produced extensive expenditure detail for the entire justice network. From the data examination it became clear the total costs of court operations was hundreds of millions of dollars per year. Local governments were the predominate source of funding for the trial courts. The

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## **Process of Review**

*continued*

state funds the Supreme Court and the Court of Appeals and only half of the salary and benefits of Superior Court Judges. Cities and counties provide all of the remaining costs for Superior, District and Municipal Courts. Fixed assets and facilities costs were not part of the subcommittee's analysis. Funding "court operations" became the focus of the work. Defining "court operations" was not easy. Eventually the group identified mandated services as the core to "court operations" and those services included judicial salaries and benefits, indigent defense, jury service, expert witnesses, and interpreters. The five services were deemed mandated by the constitution or other laws. In addition the group concluded local governments have little lawful ability to reduce the costs of those services. Further failure to provide the mandated court operations has a direct and deleterious impact upon access to justice. Finally the members concluded that, in fact, some of the five services were not available in all Washington trial courts.

The subcommittee discussed various options of funding trial court costs for judicial salaries and benefits, indigent defense, juries, expert witnesses, and interpreters.

## **Subcommittee Findings and Recommendations**

The subcommittee determined the five identified areas for funding were in essence mandated costs for all courts. Therefore, the subcommittee concluded the following:

**1. Funding associated with the five mandated services is currently inadequate and inconsistent from county to county.** Most counties are unable to fund the needed judicial salaries, therefore, too few judges are available. Also in many counties indigent defense costs have replaced other essential services or the reverse is true and indigents do not benefit from counsel. Experts are not called because their services are beyond the ability of some local governments to fund. Great pressure is brought to avoid a trial because costs of juries and interpreters are beyond the budget. Civil matters are frequently not heard in a public court where the record is public and the rulings can serve the definition of law. The wealthy obtain the service of a private judge to render judgment. For those who cannot afford a private judge for their civil matter, they face months and even years before their issue is resolved.

**2. The funding is not only inadequate but inconsistent; therefore, access to justice varies from county to county.** Often plea negotiations are required because of inadequate resources. In one county

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## **Subcommittee Findings and Recommendations**

*continued*

the prosecutor was not able to file charges based upon the evidence but based upon what the budget would support. Judges frequently cannot impose incarceration for a convicted criminal because of the costs. Trials are delayed because of the expenses associated with interpreters and/or expert witnesses.

**3. The state should assume the costs of the five enumerated cost centers for all courts.** The statewide cost of the five mandated services is one hundred million dollars per year at the current level of service. To fund the services at the appropriate level would likely exceed one hundred and eighty million dollars per year. Local governments simply cannot meet such an obligation.

**4. Legislation is essential to address the fundamental funding requirements.** Such legislation should provide local options for state funding with the approval of the local judiciary and the local legislative body. All judicial salaries and benefits should be paid with state funds. A fund should be created at the state to pay for the costs associated with jury service, expert witnesses, interpreters and indigent defense for all trial courts.

**5. Any funding proposal for the five mandated services can only be considered a beginning.** Significant additional resources are needed to adequately support the courts in Washington. Court facilities, support staff, technology, and redesign are essential for the courts to meet contemporary standards. Most trial court facilities were constructed at the turn of the century; they are inadequate in most counties. Minimal security for those who use and work in court-houses is not available. Few, if any, trial courts are served by sufficient support staff; only a few are served with full-time security staff, and none have adequate clerical support. In most court facilities, jurors are compelled to mix with witnesses and parties to trials because of poor construction and design. In one of the urban counties a storage closet serves as judge's chambers, and clerks work in windowless rooms too small to accommodate a normal desk. In several counties, the judge holds court in hallways and other inappropriate locations. Municipal courts seldom provide even inadequate court services. They are looked upon as revenue centers and some judges have been dismissed because they failed to raise sufficient revenue for the city.

**Conclusions**

The findings and recommendations of the subcommittee were submitted to the Commission on Justice, Efficiency, and Accountability, along with a draft legislative proposal. The subcommittee members appreciated the opportunity to provide the Commission with the views of the representatives of the judiciary, legislature, court management, Governor, cities, counties, and the public.

With the approval of the Commission, legislation titled "The Court Improvement Act of 1999" was drafted and introduced into the 56th legislature. The Act embodied the principles from finding number 4 and was sponsored in both houses of the legislature by the Chairs of the Judiciary committees. After hearings and numerous amendments, neither bill was passed by the legislature.

However, the Act did stimulate significant discussion about court funding. Legislative leaders have requested the Chief Justice convene a work group to continue the work initiated by this commission. Clearly the legislative leaders believe the Board for Judicial Administration should appoint a standing committee to develop a continuing plan for court funding. To quote one leader of the legislature "I, like you have been concerned about the lack of funding for the states trial courts and the corresponding impact on access to justice for some time now. I am pleased that more people are now becoming engaged in looking for solutions to these problems, and I would like these efforts to continue."

*Judge Kenneth Grosse*  
*Chair, Funding Subcommittee*

**Actions needed to implement recommendations****Funding Subcommittee**

<b>Recommendation</b>	<b>Action</b>	<b>Responsibility</b>
State funding of five non discretionary categories (judicial salaries; jury costs; interpreter costs; trial court indigent defense costs; and expert witness costs)	Introduce Legislation	Board for Judicial Administration, counties
Reduce inconsistent funding among counties	Establish funding standards	Board for Judicial Administration
State assumption of court costs	Enact court funding legislation	Legislature
Identify total resource needs of all courts	Establish minimum standards for court services and identify resources necessary to provide said services	Board for Judicial Administration; Office of the Administrator for the Courts



# Governance Subcommittee

## Final Report

### Introduction

Since the introduction in 1967 of a constitutional amendment to reform the state court system, Washington's judiciary has been evaluated, studied, probed and prodded. Most recently, four "blue ribbon" commissions convened to recommend various ways to improve the judiciary (Judicial Administration Commission (1985); Washington Courts 2000 (1992); the Walsh Commission (1996); and the Court of Limited Jurisdiction Assessment Survey (1997)). A review of those commission's reports reveals surprisingly similar concerns and recommendations, but little change.

How can the court system respond to change? How can the judiciary effectively solve problems? How can the judiciary speak with one voice?

The Governance workgroup was convened to consider these questions and recommend positive solutions.

Members of the workgroup are:

Mr. Paul Steere, Chair  
Judge Susan Agid  
Mr. Douglas Beighle  
Judge Michael Donohue  
Judge C. Kenneth Grosse  
Dr. Ronald Harrison, facilitator  
Mr. Walt Howe  
Judge Robert E. McBeth  
Ms. Sandy Widlan, Reporter

### Process

The subcommittee began its work by discussing the following questions:

**How does Washington's judicial system set strategic direction for the courts?**

- Current planning is typically focused on specific problem areas as identified by a specific group, such as the District and Municipal Court Judges' Association (DMCJA) or the Superior Court Judges' Association (SCJA):
- Attention is usually focused on problem areas in an uncoordinated way, that is one group or association usually undertakes planning in isolation from other groups. The current statutory authorities for

## **Process**

*continued*

the trial court associations are narrow and limited to one court level.

- Although the Board for Judicial Administration (BJA) might be a logical governing body to undertake comprehensive planning, it is constrained by the requirement that it only act with unanimous consent from members. This may have a chilling effect on issues that are brought to the table.
- The BJA does not see itself as having a mandate to act as the strategic planning group for the judicial system.
- The personality and interests of the Chief Justice have largely driven the activities of the BJA.

### **What is working well within the Washington judicial system?**

- Courts keep operating. Judges are dedicated to their work – cases get resolved. The system is not corrupt. Generally, good decision-making occurs.
- The system responds to crisis when it happens
- OAC “works.” It is the only entity that has, at the core of its mission, the improvement of the courts.

### **What is not working well within the Washington judicial system?**

- As pressure builds within the system to do more with less, there is no way for the judiciary to exert control. Courts cannot continue to take on everything the legislature mandates.
- Funding is critically inadequate to perform quality work.
- While some say the system is broken, many would agree that there is no system from day to day to assure that it won’t break down. The judicial system does not have a mechanism to assess and articulate what its status is, and what changes must be made.
- The judicial system is reactive by character.
- Complex organizations and corporations do not view the courts as well equipped to decide certain types of complicated issues. As a consequence, business may go elsewhere (JAMS, corporate headquarters move out of state, etc.)
- Judicial resources available for civil cases are continually restricted due to the demands of the criminal caseload.
- Unfunded mandates diminish the ability of courts to “keep up.” Recent enactments in domestic violence laws, and new responsibilities to adjudicate trancies are examples.

*continued*

## **Process**

*continued*

- Public confidence in governmental institutions, including courts, appears to be weak. (The group noted however, that among the branches of government, new responsibilities are often placed in the judicial branch because of the expectation that courts can "get the job done.")

- There is no mechanism to allow and encourage capability of the judiciary to speak with a singular voice to the other branches and other outside entities.

- Specialty courts (family, drug, teen, etc.) may be emerging because of the system's inability to adapt to changes.

- Court customers depend on judges to be well qualified to preside over complex cases (patent, land-use, bio-technical, etc.), while the mechanisms for developing specialization among judges are not well-developed

- Quality assurance through performance evaluation, professional standards, or other methods for ensuring high levels of professional conduct is lacking.

Next, the group discussed possible alternatives for creating an authority within the judicial branch whose responsibility would be to systematically plan for the court system.

- The trial court associations are viewed more as professional organizations, rather than leadership or "change-oriented" groups. Consequently, they may be unable to play a more strategic planning role.

- Although the Supreme Court is at the "top" of the judicial system from a case-flow perspective, it does not necessarily follow that the Court has the interest or capability to play a strategic planning role on behalf of the judiciary. Although Supreme Court rule-making authority is clear, the role of the Court with respect to leadership and management authority is less clearly established.

- Creating a structure that would involve presiding judges might promote a method for system-wide attention to problems and strategic planning.

- Redefining the BJA so that it is not viewed as a "top-down" dominated organization is desirable. Also, redefining its membership so that it becomes more representational of courts, as opposed to merely reflecting the leadership of the trial court professional organizations, might be an important consideration.

*continued*

## **Process**

*continued*

- In the definitional stages of finding a structure for strategic planning, the relationship of the OAC to the governing body becomes an important issue.

- The building of trust, through a consensus approach to problem solving, is seen as critical to real change. Judges must have a way to be heard and to contribute to the development of changes. There is a distinction between the absolute authority of individual judges in their role as decision-maker, versus the system's need to define an overarching authority that can plan and lead the administration of justice.

The Judicial Information System Committee (JISC) was identified as a leadership model that works well for the judiciary for the following reasons:

- It has a mission, structure, and rules for operating that are clearly identified.
- It incorporates all constituent groups within the court system.
- It is firmly supported by judicial leaders from the Supreme Court down.
- It has direct, continuing staff support that does not get fragmented on other work.
- It deliberately sets priorities for action that do not change unless the whole group agrees. A process for considering unplanned projects exists, but the overall business plan drives consideration of these.

If the judiciary is to lead rather than follow, it needs to move to the other end of the parade. Instead of following agendas, the judiciary must initiate the agenda.

The only way for a decentralized organization like the Washington state judiciary to become proactive is through an effective governance structure authorized to adopt policies, cast a single vision and provide strategic leadership. The subcommittee's recommendations embody the essential components for creating an effective governance structure.

## **Recommendations**

**1. The "mission" of the Board for Judicial Administration should be revised to emphasize a governance versus "representative" purpose.**

**COMMENTARY:**

Without restating the obvious, the subcommittee determined that an essential component of an effective organization is its ability to initiate and execute its own agenda.

While the Board for Judicial Administration was created to bring the various judicial constituencies together to formulate policy on issues of mutual interest, the Board has historically represented the various judicial stakeholder groups (Supreme Court, Court of Appeals, Superior Courts and the District and Municipal Courts). The current representative mind set results in the Board's diffused allegiance and reluctance to attack controversial issues. When interviewed, past Board representatives observed that trial court judges basically fear Supreme Court control, either in terms of state funding or through the Office of the Administrator for the Courts. The Board for Judicial Administration is viewed as an instrumentality of the Chief Justice acting on behalf of the Supreme Court. Even though the Board for Judicial Administration rule articulates a "policy" or governance purpose, its actual role appears, at times, to be "advisory" to the Supreme Court. The subcommittee considered whether or not to recommend abolishing versus restructuring the Board for Judicial Administration including changing the name of the Board. John Carver in "Boards that Make a Difference," advises, "when a function has been assembled from bits of historical practice more than it has been designed, it cannot so gracefully incorporate wisdom, but must patch it on here and there."

After lengthy discussions, the subcommittee determined that restructuring the existing Board would produce the most effective result. The Board for Judicial Administration's mission should redefine its allegiance to a larger community - the judiciary at large - and clearly articulate a governance versus advisory role. The structure of the Board for Judicial Administration must enable the judiciary to speak with one voice without squelching dissent or pretending unanimity. Toward that end, the new mission statement should provide for continuity of membership and criteria for appointment emphasizing accountability to the judiciary at large.

*continued*

## **Recommendations**

*continued*

**2. The Chief Justice of the Washington state Supreme Court should chair the Board for Judicial Administration. The vice-chair should be re-designated as "president" and elected from the membership.**

**The duties of the chair and the president should be clearly articulated in the bylaws, including the president's role as chair of the long-range planning committee.**

### **COMMENTARY:**

In order to be effective, the Board for Judicial Administration needs to behave as a holistic organization. While, the Washington Constitution establishes a hierarchy of courts for the purpose of appeal, responsibility for policy must reside within the Board for Judicial Administration if the judiciary is to function as an effective branch of government. The position of Chief Justice carries honorific as well as actual governance responsibilities (RCW 2.56). The chair's job requires skilled handling of process and an ability to fairly but firmly lead a group to confront and welcome diversity of opinion. After discussion, the subcommittee agreed that the Chief Justice should continue to be designated as chair of the Board for Judicial Administration.

The subcommittee believes that redesignating the position of "vice chair" to "president" is one way of building the trial court judges' confidence in the role of the Board for Judicial Administration. Electing a president from the Board's membership contributes to developing greater trust among court levels. Additionally, designating the president to lead the long-range planning process, further reinforces the Board's policy role and extends the message of speaking with one voice.

**3. At least four standing committees should be created: Long-range Planning; Core Mission/Best Practices; Funding; and Legislative. Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an "as needed" basis. The membership should be open to citizens and experts from the private sector with the Chief Justice and vice-chair nominating committee chairs for the Board's approval.**

### **COMMENTARY:**

Board committees are established to aid in the process of governance (Carver 1990). Committees should assist the Board in achieving its mission and implementing the approved long-range plan. Commit-

*continued*

## **Recommendations**

*continued*

tees can work simultaneously to identify problems and formulate solutions for Board action. Each committee should work as a mini-board, studying, deliberating, formulating and finally, recommending a course of action for the Board for Judicial Administration. Committee work results in recommendations for consideration and adoption by the Board. If the Board is to deliberate and adopt policy positions, it will do a better job if presented with options.

The Chief Justice in consultation with the president will appoint people to chair the standing committees. The committees should produce alternative/implication reports for the Board's consideration. The Board for Judicial Administration should use committee reports, surveys and studies to inform its decisions as a holistic board.

**4. In order to encourage judges' participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time.**

### **COMMENTARY:**

The size of courts severely limits the ability of some judges to serve on the Board for Judicial Administration and its committees. Necessary statutory or court rules should establish the ability for judges to be granted the equivalent pro tempore time. The Office of the Administrator for the Courts should be directed to include the Board for Judicial Administration pro tempore costs in its operating budget.

**5. The Chief Justice along with the president should establish the meeting agenda and meetings should be held bi-monthly to allow for intervening subcommittee work. The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.**

### **COMMENTARY:**

The Board for Judicial Administration must begin to shift its attention from immediate monthly agendas to the year's agenda. The Board must organize its agenda looking at "the big picture" or long-range plan.

The long-range plan leads to a more specific, short-term agenda. The Board can then establish objectives and measure effectiveness. Objectives yield a sequence of single meeting agendas and committee work.

*continued*

## **Recommendations**

*continued*

Bi-monthly, day long meetings would allow the subcommittees to pursue their objectives and focus the policy issues for the Board for Judicial Administration's consideration. In addition, moving the Board meetings to a Monday would allow a weekend for members to review materials.

Providing staff support to the Board for Judicial Administration and its committees should be included in the Office of the Administrator for the Courts' business plan as a core mission. The Office of the Administrator for the Courts should be responsible for the timely distribution of agenda, minutes and materials prior to Board meetings.

**6. In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include:**

<b>Chief Justice</b>	
<b>Administrator for the Courts</b>	
<b>Court of Appeals</b>	<b>3 judges</b>
<b>Superior Court</b>	<b>4 judges</b>
<b>District/Municipal Courts</b>	<b>4 judges</b>
<b>Washington state Bar Association</b>	<b>2 non-voting</b>

**The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect diversity as well as geographic and caseload differences. Members should serve four year staggered terms.**

### **COMMENTARY:**

If the judiciary is to "speak with one voice" the Board for Judicial Administration must truly represent the overall system interests rather than the agenda of individual court levels. The Judicial Information System Committee (JISC) was identified as a leadership model that works well and is supported by all the various constituent groups within the court system.

Each court level should determine how to select their representatives with an attempt to achieve diversity. The bylaws should be amended to remove any reference to association officers.

Board for Judicial Administration members should serve four year staggered terms with ability to be reappointed.

**7. All Board for Judicial Administration policy positions should be determined by majority vote.**



*continued*

## **Recommendations**

*continued*

### **COMMENTARY:**

The existing unilateral "right of veto" perpetuates the balkanized representative nature of the Board for Judicial Administration. Preferably, all positions would be by majority vote after significant deliberation. However, recognizing the mistrust among the levels of courts, a workable alternative might provide that any position vote would require a "super majority" (2/3).

*"Little steps, for little feet."*

**- Paul Steere**

The subcommittee determined that evolution was preferable to revolution and small steps ultimately arrive at the same destination. But every journey begins with a single step. These recommendations identify steps the judiciary must take to become an effective organization setting its own agenda. Effective governance is essential to an effective judiciary.

## **Conclusion**

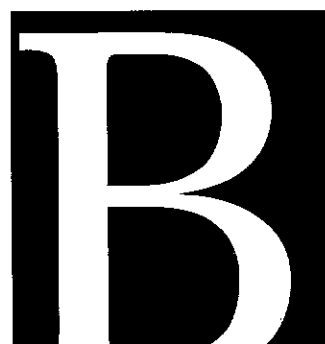
## Actions needed to implement recommendations

**Governance Subcommittee**

<b>Recommendation</b>	<b>Action</b>	<b>Responsibility</b>
1) "Governance" Mission for the BJA	Amend BJAR Amend BJA Bylaws Article I	Supreme Court BJA
2) BJA Leadership (chair; president; duties)	Amend BJAR 2(2) Amend BJA Bylaws Article III (officers & reps.) Article IV (duties of officers)	Supreme Court BJA
2.3) Meetings; agenda	Amend BJAR 2(3) Amend BJA Bylaws Article VII (regular Meetings) Article IX (special mtgs.)	Supreme Court BJA
3) Standing committees/ subcommittees <ul style="list-style-type: none"> <li>• Long-range planning</li> <li>• Core mission/best practices</li> <li>• Funding</li> <li>• Legislative</li> </ul>	Amend BJA Bylaws Article VI (committees) Article VII (Executive Committee)	BJA
4) Pro Tempore time	New section RCW 2.08 RCW 2.06 [see RCW 3.34.130(2)(d)]	Legislature
6) Membership	Amend BJAR 2(a); (b); (c) Amend BJA Bylaws Article II (membership) Article III (officers & reps.) Article V (vacancies)	Supreme Court BJA
7) Voting	Amend BJAR 2(d)5 Amend BJA Bylaws Article XI (voting) Article XIII (amendment and repeal of bylaws)	Supreme Court BJA
8) Best Practices	Amend BJA Bylaws Article VI (committees)	BJA
9) Core Functions	Amend BJA Bylaws Article VI (committees)	BJA
10) Adequate Resources	Amend BJAR Amend BJA Bylaws Article I	Supreme Court BJA



# Appendix





# Court Performance Standards

## *Guiding Principles*

### **ACCESS TO JUSTICE**

#### *Standard 1.1 Public Proceedings.*

The court conducts its proceedings and other public business openly.

#### *Standard 1.2 Safety, Accessibility,*

*and Convenience.* Court facilities are safe, accessible, and convenient to use.

#### *Standard 1.3 Effective Participation.*

The court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.

#### *Standard 1.4 Courtesy, Responsiveness, and Respect.*

Judges and other court personnel are courteous and responsive to the public, and accord respect to all with whom they come in contact.

#### *Standard 1.5 Affordable Costs of Access.*

The costs of access to court proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.

### **EXPEDITION AND TIMELINESS**

#### *Standard 2.1 Case Processing.*

The court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

#### *Standard 2.2 Compliance with Schedules.*

The court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

#### *Standard 2.3 Prompt Implementation of Law and Procedure.*

The court promptly implements changes in law and procedure.

### **EQUALITY, FAIRNESS, AND INTEGRITY**

#### *Standard 3.1 Fair and Reliable Judicial Process.*

Court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

#### *Standard 3.2 Juries.*

Jury lists are representative of the jurisdiction from which they are drawn.

#### *Standard 3.3 Court Decisions and Actions.*

Courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

#### *Standard 3.4 Clarity.*

The court renders decisions that unambiguously address the issues presented to it and clearly indicate how compliance can be achieved.

#### *Standard 3.5 Responsibility for Enforcement.*

The court takes appropriate responsibility for the enforcement of its orders.

#### *Standard 3.6 Production and Preservation of Records.*

Records of all relevant court decisions and actions are accurate and properly preserved.

### **INDEPENDENCE AND ACCOUNTABILITY**

#### *Standard 4.1 Independence and Comity.*

The court maintains its institutional integrity and observes the principle of comity in its governmental relations.

#### *Standard 4.2 Accountability for Public Resources.*

The court responsibly seeks, uses, and accounts for its public resources.

#### *Standard 4.3 Personnel Practices and Decisions.*

The court uses fair employment practices.

#### *Standard 4.4 Public Education.*

The trial informs the community about its programs.

#### *Standard 4.5 Response to Change.*

The court anticipates new conditions and emergent events and adjusts its operations as necessary.

### **PUBLIC TRUST AND CONFIDENCE**

#### *Standard 5.1 Accessibility.*

The public perceives the court and the justice it delivers as accessible.

#### *Standard 5.2 Expeditious, Fair, and Reliable Court Functions.*

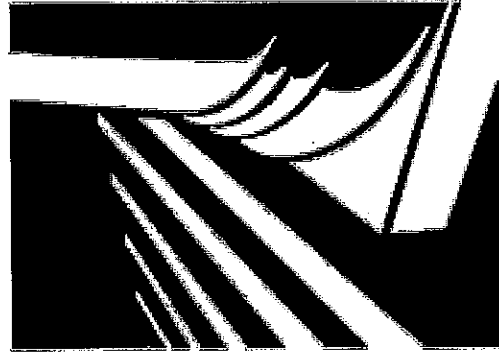
The public has trust and confidence that basic court functions are conducted expeditiously and fairly, and that court decisions have integrity.

#### *Standard 5.3 Judicial Independence and Accountability.*

The public perceives the court as independent, not unduly influenced by other components of government, and accountable.

THE LONG-RANGE STRATEGIC PLAN  
FOR THE BOARD FOR JUDICIAL ADMINISTRATION

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WASHINGTON  
COURTS

# INTRODUCTION

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In August 1999, the final report of the Washington State Commission on Justice, Efficiency and Accountability (JEA) recommended a fundamental restructuring of the Board for Judicial Administration. In January 2000, the Supreme Court amended the Board for Judicial Administration Rules and the Board for Judicial Administration amended their by-laws effecting the changes recommended by the Commission.

The Long Range Plan for the Board for Judicial Administration has as its basis the Board for Judicial Administration Rules (BJAR) and the By-Laws of the Board for Judicial Administration. Taken together, those documents outline the vision, mission, and issues the Board for Judicial Administration is charged with addressing.

"The only way for a decentralized organization like the Washington state judiciary to cast a single vision is through an effective governance structure authorized to adopt policies and provide strategic leadership." – Commission on Justice, Efficiency and Accountability

"The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice." – BJAR Preamble

This Long Range Plan is designed to formalize that vision as well as to create a platform for on-going operational deployment of the goals, objectives and tasks. While this document must be viewed in the context of planning for the judiciary as a whole, the focus is the specific strategies that the Board for Judicial Administration will employ to achieve its long range goals.



# VISION, MISSION, AND ISSUES

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## MISSION

TO ENHANCE THE JUDICIARY'S ABILITY TO SERVE AS  
AN EQUAL, INDEPENDENT AND RESPONSIBLE BRANCH  
OF GOVERNMENT.

## VISION

THE BOARD FOR JUDICIAL ADMINISTRATION WILL BECOME THE LEADER AND  
VOICE OF THE WASHINGTON STATE COURTS.

## ISSUES

- I. PROVIDE EFFECTIVE LEADERSHIP AND A UNIFIED VOICE FOR THE  
JUDICIARY
- II. FOSTER INTER-BRANCH RELATIONS
- III. DEVELOP AND MAINTAIN THE JUDICIAL LONG RANGE PLAN
- IV. ENSURE RESOURCES AND FUNDING FOR THE WASHINGTON COURTS
- V. ADVANCE THE ADMINISTRATION OF JUSTICE
- VI. PRESERVE THE INDEPENDENCE OF THE JUDICIARY
- VII. PROMOTE PUBLIC TRUST AND CONFIDENCE IN THE JUDICIARY

# ISSUE I.

## PROVIDE EFFECTIVE LEADERSHIP AND A UNIFIED VOICE FOR THE JUDICIARY

The vision for the Board for Judicial Administration is that the Board serves as a unifying voice and provides strategic leadership to the judiciary. This can only be achieved with the consent and active participation of the judges' affiliate associations. One of the key issues facing the Board for Judicial Administration is to earn and maintain the trust of these associations and to act in the best interest of the judiciary while remaining mindful of the needs of its constituent groups. The goals under this issue focus the efforts of the Board for Judicial Administration on communication and developing a trusting relationship within the judiciary.

### GOAL 1.1 THE JUDICIAL BRANCH WILL SPEAK WITH ONE VOICE

**COMMENTARY:** The cornerstone of the Commission on Judicial Efficiency and Accountability's findings and recommendations was to unify the judiciary through reorganization of the Board for Judicial Administration and the concept that the judiciary "speak with one voice." Speaking with one voice requires commitment, discipline, and a connection among and between the judges of the state and the Board for Judicial Administration.

The overarching desired outcome is that those listening to the judiciary will hear a single message and develop trust and confidence that when they hear that message, it can be relied upon and has the support of the entire judiciary.

"The structure of the Board for Judicial Administration must enable the judiciary to speak with one voice without squelching dissent or pretending unanimity."

"If the judiciary is to 'speak with one voice' the Board for Judicial Administration must truly represent the overall system interests rather than the agenda of individual court levels."

"Members should be selected by their affiliate associations and have explicit responsibility to the judiciary as a whole, not to their respective constituencies."

"Also, as a practical matter it is unlikely that any issue will be badly or arbitrarily decided because of the recognition, shared by all, that ultimately the decisions of the Board for Judicial Administration and the effectiveness of the Board itself must rest on the twin piers of their intrinsic merit and a broad consensus support from constituent judges."

Commission on Judicial Efficiency and Accountability

This does not mean that individual voices will not be heard. Rather, because the Board for Judicial Administration is a deliberative body, allowing time for members to report to and receive feedback from their colleagues, it is expected that the Board for Judicial Administration will produce results that are supportable by the overwhelming majority of individual judges and their constituent associations, boards, and commissions. The expectation is that judges, having had the opportunity to provide their input, will recognize the overarching benefit to the judiciary of speaking with one voice, even if their personal point of view did not prevail.

Nor does this mean that the Board for Judicial Administration will be the only voice of the judiciary. Inherent in the concept of speaking with one voice is the result of "many voices saying the same thing." If the judiciary is to be truly effective as a collective organization, the messages sent from all judges must be consistent.

**Objective:**

**Provide a conduit through the BJA to promote the interest and consistently express the positions of the judiciary.**

**Task:**

1. The Administrative Office of the Courts (AOC) will create a judicial communication plan. The plan will provide a process to facilitate focused communication regarding issues that arise affecting the administration of the Washington courts. Communication efforts should be tailored to each specific issue, but should generally follow the process outlined in the plan.

**GOAL 1.2**

**THE BOARD FOR JUDICIAL ADMINISTRATION WILL FOSTER COORDINATION AND COMMUNICATION WITHIN THE JUDICIAL BRANCH**

**COMMENTARY:** Consistency of the message within and from the judiciary can only be achieved if members are informed, supported, and coordinated. The Board for Judicial Administration and the judiciary must therefore enhance and maintain a structure for communication and coordination of ideas and activities.

**Objective:**

**Promote communication within the judiciary to facilitate dissemination of information and allow for feedback, input, and coordination of effort.**

**Tasks:**

1. AOC, together with the judges' association boards, will continue to refine and improve the process of judicial review and commentary regarding legislative positions. The web-based legislation tracking system will be enhanced and made available for viewing by judges.
2. The BJA will continue to support the creation of trial court coordination councils. Grant funding will be made available for projects that facilitate communication and coordination among trial court levels and with local justice system agencies.
3. The BJA will encourage the upgrading of the Washington Courts website to provide an easily accessed forum for the exchange and dissemination of court innovations, best practices, ideas, and educational topics.

**GOAL 1.3**

**THE BOARD FOR JUDICIAL ADMINISTRATION WILL FOSTER AND DEVELOP LEADERSHIP WITHIN THE JUDICIAL BRANCH**

**COMMENTARY:** The judiciary's success in earning the public's trust and confidence is dependent upon the presence of strong and recognized leaders at all levels of court. General Rule 29 adopted in April of 2002 defined the position of presiding judge as one of leadership. The Board for Judicial Administration has established the Presiding Judges' Conference to support and develop the leadership skills of judges serving in that position. In doing so, the judiciary has begun to develop a structure that fosters the development of judges as leaders in their courts, communities, as members of judicial branch partner organizations, as representatives of the judiciary, and as elected members of state and local government.

**Objective:**

**Provide education for judges that focuses on the development of leadership skills and provide tools to be used in the daily management and administration of their courts.**

**Tasks:**

1. The Presiding Judges' Conference will continue to refine and improve the educational content of the Conference. The focus will be on enhancing leadership, management, and communication skills.
2. AOC will provide a leadership seminar for judges.
3. Investigate/develop ways to encourage judges to participate in judicial branch leadership activities.

## **ISSUE II.**

# **FOSTER INTER-BRANCH RELATIONS**

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To preserve the integrity of the judicial branch, the courts must remain above the "political fray." However, the exercise of restraint by the judiciary often results in the perception that judges are disinterested or aloof. This can lead to a significant knowledge gap among the three branches of government.

### **GOAL 2.1 PROMOTE AND FACILITATE WORKING RELATIONSHIPS WITH THE EXECUTIVE AND LEGISLATIVE BRANCHES OF STATE GOVERNMENT BASED ON MUTUAL RESPECT AND COMMUNICATION**

**COMMENTARY:** The courts must interact with the executive and legislative branches on issues of keen interest and pertinence to the administration of justice without involvement in the political process. This goal encompasses defining the nature and scope of appropriate inter-branch relations for the judiciary, communicating to the other branches the nature and extent of the restraints on judicial participation in the political process and finally the exercise, within the defined boundaries, of those relations.

#### **Objective:**

**Define and communicate the scope of appropriate inter-branch relations for the judiciary.**

#### **Tasks:**

1. The BJA will develop a legislative bench book focusing on the nature and extent of judicial participation in the political and legislative process. The bench book will be made available to the judiciary and to members of the executive and legislative branches.
2. The BJA will re-institute informal, topical lunch meetings and pre-session dinners with executive and legislative branch leadership. These meetings will focus on building relationships and improving communication between the branches, as well as providing education regarding current judicial branch issues and court processes.
3. The BJA will encourage judges to offer their local legislators guided courthouse tours.

4. The BJA will research the impact of local government inter-branch relations and communications on funding variability across courts relative to available fiscal resources.
5. Submit a research proposal to the Washington State Center for Court Research and conduct research project if approved.

# **ISSUE III.**

## **DEVELOP AND MAINTAIN THE LONG RANGE PLAN FOR THE JUDICIARY**

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The judges' associations and various committees each have a role in developing and implementing judicial initiatives within their specific sphere of interest. Collectively, their efforts constitute the agenda of the judiciary. The Board for Judicial Administration is charged with presenting the collective agenda as a cohesive plan. In doing so, the judiciary will project a strong image of thoughtful and deliberate action to the public and other constituencies.

### **GOAL 3.1**

#### **WORK WITH JUDICIAL REPRESENTATIVES TO DEVELOP AND MAINTAIN A COMPREHENSIVE JUDICIAL LONG RANGE PLAN**

*COMMENTARY:* Initial efforts to develop a Long-Range Plan for the judiciary focused on developing a comprehensive inventory of activities including a brief description of the context or impetus for each activity. General agreement was also attained on the major issues facing the judiciary. The focus of the completed Long-Range Strategic Plan will be to build upon the previous work using the framework of this Plan and to articulate the specific goals which current and future activities support.

#### **Objective:**

**Create a long range plan that will collect and formalize the goals, objectives, and tasks supported by current and planned judicial activity.**

#### **Tasks:**

1. The BJA will expand the Long-Range Planning Committee to include judicial partner representatives.
2. The expanded Committee will decide on a process to coordinate the compilation of the Judicial Long-Range Plan.

**GOAL 3.2**  
**EDUCATE THE PUBLIC AND JUDICIAL BRANCH CONSTITUENCIES AND PARTNERS**

**COMMENTARY:** A long-range plan serves two purposes: 1) it directs and focuses the efforts and activities of an organization and 2) it communicates to others what an organization is doing and can be expected to do. It also tells others that an organization knows what it is doing and why. This goal informs the court community and their external partners and constituencies about the activities of the judiciary and demonstrates to them that the judiciary operates with directed purpose based on carefully formulated goals.

**Objective:**

**Inform the judicial branch, judicial branch partners, the legislative and executive branches, and the public of the Long-Range Plan goals.**

**Tasks:**

1. The BJA Long-Range Planning Committee will publish the Long-Range Plan on the Washington Courts website.
2. The Public Trust and Confidence Committee will inform and educate the public on the goals contained in the plan as part of their communication strategy.
3. The BJA Long-Range Planning Committee will provide an overview of the plan goals at the judicial, presiding judge, and court manager conferences.

**GOAL 3.3**  
**DEMONSTRATE THAT THE JUDICIARY CAN BE RELIED UPON TO EXECUTE THE LONG RANGE PLAN**

**COMMENTARY:** The development and distribution of a long range plan creates expectations of performance and execution. Actual performance and execution fosters respect and trust: respect for the organization's ability to do what it says it will do and trust that an organization can be relied upon in future endeavors. To develop the trust and respect of the court community and their external partners and constituencies the judiciary must demonstrate and communicate success in completing tasks that result in meeting objectives in support of stated goals.



**Objective:**

Demonstrate the ability to successfully meet the objectives and complete the tasks that support the plan's stated goals.

**Tasks:**

1. AOC will create a milestone chart to track progress. The chart will include a task list, responsibility, target dates, and status.
2. AOC will publish an annual progress report based on the milestone chart.

## **ISSUE IV.**

# **ENSURE RESOURCES AND FUNDING FOR THE WASHINGTON COURTS**

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The issue of adequate resources for the states' trial courts has long been at the forefront of the judicial branch agenda. Nearly every task force and commission in the past 30 years examining the work of the courts has addressed court funding. These task force and commission reports have been fairly consistent in identifying the nature of the problem and of the solutions. As partial solutions are enacted, new problems emerge making trial court funding an issue that will require constant and vigilant effort to improve funding and safeguard adequate funding once it is secured.

### **GOAL 4.1**

#### **DEFINE THE RESOURCES THE COURTS ARE CURRENTLY UTILIZING**

**COMMENTARY:** The courts currently have no ability to readily and accurately account for and describe local government expenditures in support of Washington's trial courts in general or for discrete functions. Efforts to define and secure adequate resources can only succeed when compared and contrasted to a current base.

#### **Objective:**

**Provide a mechanism that will precisely account for local government trial court expenditures.**

#### **Task:**

1. The BJA will create an ad hoc committee including judges, court administrators, and local government finance officers, to determine the feasibility of creating a new and discrete trial court accounting and reporting process.

**GOAL 4.2**  
**DEFINE THE RESOURCES NECESSARY TO OPERATE THE COURTS EFFECTIVELY**

**COMMENTARY:** With the exception of the objective workload analysis methodology employed to estimate judicial officer need, staffing, program, and other funding standards do not exist for trial court budgeting in Washington State. With few exceptions (criminal indigent defense attorney caseload standards, probation caseload standards), national standards do not exist for courts. In order to make the case for adequate funding of the Washington courts, reasoned and accepted staffing, program, and other funding standards must be developed.

**Objective:**

**Create a methodology to define standards which will determine trial court program and expense levels.**

**Task:**

1. AOC will determine the feasibility of defining funding standards related to trial court programs and expenses.

**GOAL 4.3**  
**SECURE ADEQUATE, STABLE AND LONG TERM FUNDING FOR THE WASHINGTON COURTS**

**COMMENTARY:** Equal and timely access to justice is dependent on adequate, stable funding of the courts and is essential to the public's trust and confidence in the judicial branch of government. If justice is to be equitably administered and services are to be consistently provided statewide, the functioning of the courts cannot rise and fall with the peaks and valleys of a local economy.

**Objective:**

**Secure a stable and adequate funding stream for the Washington courts.**

**Task:**

1. The BJA has created a Court Funding Implementation Committee to implement fully the recommendations of the Trial Court Funding Task Force contained in its report, Justice in Jeopardy, released on December 15, 2004 including:
  - Shifting a fair share of those trial court expenses to the state that are mandated by statute or by the state's constitution: judges' salaries at all levels of court, language interpreters, juror costs, witness fees, juvenile dependency representation,

- Increasing the overall funding of the trial courts to enable courts to meet their constitutional and statutory responsibilities. Supporting legislation creating new general fund resources if the legislature deems it necessary to fund additional state expenses identified above and to ensure adequate trial court funding.
- Creating local court improvement accounts to ensure that a portion of the benefit from the shift of responsibility from county to state government inures to the benefit of the courts.
- Conducting an analysis of the PSEA account to provide for more effective collection and division of court penalties and legislative assessments.

2. The BJA will continue to build upon the Justice in Jeopardy implementation strategy initiated in the 2005 legislative. In 2005, the legislative strategy included the introduction of legislation to increase trial court filing fees combined with requests for state funding of selected expenditures that were identified by the Court Funding Task Force as appropriate responsibilities for the state to assume. The primary expenditures targeted for increased state support in 2005 included criminal indigent defense, parental representation in dependency actions, expansion of civil equal justice, and trial court operations (district court judicial salaries and elected municipal court judicial salaries, and juror reimbursement). A key component in the partial shift of responsibility to the state for trial court operations was the creation of trial court improvement accounts dedicating half of the savings realized by local government to fund improvements to local courts' staffing, programs, facilities, or services.

3. The BJA will explore funding mechanisms which allow for funding incremental impacts which result from legislation. The fiscal impact of legislation is spread statewide resulting in incremental workload increases to individual courts which cannot be practically funded or staffed. Notwithstanding, the cumulative effect of legislation on court workloads is substantial. Therefore, a funding mechanism is necessary which translates the incremental workload increases into rational funding distributions and judicial officer and court staff increases.
4. Confer with legislative, executive and judicial stakeholders to explore alternative mechanisms for funding partial and whole judicial positions and associated staff that are necessary to implement legislative changes.

## **ISSUE V.**

# **ENHANCE THE ADMINISTRATION OF JUSTICE**

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At a time when funding is becoming increasingly limited for core court functions, courts must continue to review their performance and procedures to maximize the use of dwindling resources. Ongoing development of best practices ensures both efficient court processes and acceptable levels of service to court users.

### **GOAL 5.1**

#### **PROMOTE EFFICIENT AND EFFECTIVE COURT PERFORMANCE**

**COMMENTARY:** In 2000, the BJA established the Best Practices Committee. The Committee's mission is to actively participate in the selection, endorsement, dissemination, and implementation of best practices in court operations and administration. The Committee is committed to a process of continuously developing, assessing and updating those best practices.

#### **Objective:**

**Identify and disseminate best practices in court operations and administration.**

#### **Tasks:**

1. The BJA will develop a procedure for prioritizing and referring practices to the Best Practices Committee.
2. The Best Practices Committee will determine best practices for courts that encompass both efficiency and quality of justice.

#### **Objective:**

**Measure and monitor court performance to ensure the efficient delivery of court services.**

#### **Tasks:**

1. The BJA will oversee the development of the criteria and methods by AOC to conduct court performance audits pursuant to GR 32.

**GOAL 5.2**  
**IMPROVE THE QUALITY AND CONSISTENCY OF SERVICES OFFERED BY COURTS OF LIMITED JURISDICTION.**

**COMMENTARY:** The Court Funding Task Force recommended that courts of limited jurisdiction should be reorganized into regional courts funded by the state. These regional courts would have jurisdiction over all applicable state laws and county and city ordinances and causes of action as authorized by the legislature. Regional courts would operate full time, have elected judges, and offer predictable, recognized levels of service, including probation. A regional structure for courts of limited jurisdiction will decrease the proliferation of small, limited operation, part-time courts. Ideally, regional courts would offer convenience, consolidated services, staff and administration, and would achieve savings through economies of scale for all participating jurisdictions.

**Objective:**

**Organize courts of limited jurisdiction into convenient, regional courts which consolidate services now provided by multiple smaller courts.**

**Tasks:**

1. In order to move toward the long-term goal of creating regional courts of limited jurisdiction, the BJA will support the update of Title 3 RCW including:
  - Authorizing municipalities and counties to provide joint court services by interlocal agreement.
  - Authorizing cities to contract with other cities to form regional municipal courts with elected judges.
  - Emphasizing a collaborative regional approach to provision of district and municipal court services by expanding the role and membership of the districting committee.

# **ISSUE VI.**

## **PRESERVE THE INDEPENDENCE OF THE JUDICIARY**

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There are two categories of judicial independence: decisional and institutional. Decisional independence pertains to a judge's ability to render decisions based solely on the facts of the case and the applicable law, free from political or popular influence. Institutional independence involves the administrative separation of the judicial branch from the executive and legislative branches of government.

As the courts apply laws that implement public policy, their decisions may appear to be, or actually be at odds with the interests of the legislative or executive branches of government or with public opinion. However, it is precisely this independence that is indispensable if there is to be public confidence in the administration of justice.

### **GOAL 6.1**

#### **PROMOTE DECISIONAL INDEPENDENCE SO THAT JUDGES MAY ADMINISTER JUSTICE ACCORDING TO LAW WITHOUT FEAR OR FAVOR.**

**COMMENTARY:** One means of attaining decisional independence is to require that all judges be elected. While no system of judicial selection guarantees perfection, election insures that judges are directly accountable to the citizens, not to an appointing government official.

#### **Objective:**

**Ensure that judges have the freedom to render decisions without political or public influence.**

#### **Tasks:**

1. The BJA will continue to work toward the goal that all judges, including part-time judges in courts of limited jurisdiction, stand for election.
2. To differentiate their responsibilities from those of elected judges, the BJA will support limiting the authority of district and municipal court commissioners.

## **GOAL 6.2**

**PROMOTE THE INSTITUTIONAL INDEPENDENCE OF THE JUDICIAL BRANCH IN A WAY THAT WILL FOSTER MUTUAL RESPECT AND COOPERATION AMONG THE BRANCHES OF GOVERNMENT.**

**COMMENTARY:** The Court Independence Response Team (CIRT), a Committee of the BJA, was commissioned by the BJA to be both pro-active and reactive to separation of powers and other court-related issues in the Washington State courts. The committee consists of representatives of cities, counties, city attorneys, the ACLU, the Attorney General's office, and others.

### **Objective:**

**Provide a forum for discussion and resolution of issues that arise between the court and the local executive or legislative authority.**

### **Task:**

1. CIRT will continue to monitor local government's adherence to GR 29 (the Presiding Judge Rule), and to educate the courts and local governments regarding separation of powers issues.



## **ISSUE VII.**

# **PROMOTE PUBLIC TRUST AND CONFIDENCE IN THE JUDICIARY**

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The BJA established the Committee on Public Trust and Confidence in 1999 to identify and implement initiatives to enhance public trust and confidence in the State's judicial branch of government.

The Committee strives to ensure that individuals who have contact with the judicial branch of government are treated with respect and equality, as well as to foster a greater understanding of and respect for the judicial branch of government. In 2004, the Committee identified the following goals and projects to achieve a higher level of trust and confidence.

### **GOAL 7.1**

#### **IMPROVE ACCESS TO COURTS STATEWIDE**

**COMMENTARY:** Improving access to courts is seen as a critical first step in improving the public's level of confidence in their court system. Too often, those who visit the courthouse experience both fear and confusion as they try to navigate a complicated legal system on their own. Simple changes in courts statewide will help make a difference in their courtroom experience.

#### **Objective:**

**Facilitate changes in courthouses throughout Washington State to ensure that individuals who have contact with the judicial branch of government are treated with respect and equality.**

#### **Tasks:**

1. The Committee is undertaking two activities to improve access to Washington Courts:
  - Creation of a statewide curriculum for a volunteer docent program.
  - A pilot project identifying 'key confidence interaction points' in courts throughout Washington State.
2. The Committee will work with the civil equal justice community to facilitate the adoption of their recommendations.

**GOAL 7.2**  
**IMPROVE THE PUBLIC'S AND THE MEDIA'S UNDERSTANDING OF THE COURT SYSTEM**

**COMMENTARY:** To improve the level of confidence in the court system, it is imperative that the public understand how the judicial branch operates and what a vital role an independent judiciary plays in a democratic society. To achieve this level of understanding, the Committee must also focus its efforts on educating the media, so that reporting on court-related matters is accurate and informative.

**Objective:**

Increase the media's level of knowledge of how the judicial branch of government operates; increase the level of public outreach by judges throughout Washington State; and increase the amount of information given to citizens who serve as jurors each day.

**Tasks:**

1. The Committee will develop a local court media outreach how-to kit for all presiding judges, including items such as template annual reports, press releases, guest editorials, and media pamphlets.
2. The Committee will create a curriculum for a "Courts 101" workshop for the media and a companion comprehensive media guide.
3. The Committee will undertake efforts to increase appreciation of jurors, and their understanding of their rights and responsibilities.



## Supreme Court Administrative Committee Recommendations

### The Task Force on Race and the Criminal Justice System Recommendations Made to the Supreme Court and Proposed Plans for Implementation Washington Minority and Justice Commission September 7, 2011

At the Supreme Court's September 7, 2011 Administrative En Banc Conference the justices agreed to refer the Recommendations Made to the Supreme Court and Proposed Plans for Implementation Washington Minority and Justice Commission to the court's Administrative Committee to discuss "next steps." The Administrative Committee reviewed the recommendations in more detail to determine which recommendations to suggest that the Commission pursue, which recommendations to recommend to the court to pursue, and which recommendations the court should leave to the Commission to make its own decision whether to pursue within the Commission's vision, mission, and goals.

#### Suggested Recommendations that the Commission Pursue

*Task Force Recommendation #1*—Participate and exercise leadership in the public dialogue on race within our justice system. Institutionally create and/or empower an entity to address these concerns publicly and to play a leadership role in oversight.

#### Suggested Recommendations that the Supreme Court Pursue

*Task Force Recommendation #2*—Commit to a series of forums on specific issues related to race in the criminal justice system so that specific and detailed recommendations for real change might be achieved.

**Recommend to Supreme Court to commit to convene a roundtable once a year at the Supreme Court. The chief justice should invite legislative and executive branch officials to attend**

Suggested Recommendations Commission is Welcome to Pursue, Provided Actions Fit Within the Commission's Vision, Mission, and Goals

*Task Force Recommendation #3*—Commit to the ongoing education of judges at all levels and direct the staff at AOC to actively support the judicial conferences in funding and supporting fact based quality presentations on the problems of bias and racial disparity. Encourage judges to undergo training on pretrial and bail screening instruments to reduce racial disparity among the detained/incarcerated population.

*Task Force Recommendation #5*—Undertake a critical review of each stage of our criminal proceedings in all of our trial courts to examine whether there might be practices that might have developed over time that contribute to racial disparity and commit to addressing these practices either by training or court rule.

Other Recommendations

*Task Force Recommendation #4*—Direct the Washington State Center for Court Research to study and publish data regarding the incarceration of minority populations and undertake a review of race neutral policies, practices and laws that may contribute to racial disproportionality with the goal of publishing such information and keeping the data fresh and updated.

**The Administrative Committee recommends the court refer this recommendation to Washington State Center for Court Research (WSCCR) to Judge Ann Schindler, chair of WSCCR, and to Jeff Hall to determine whether WSCCR can accomplish the task and determine the cost involved.**

*Task Force Recommendation #6*—Support the expansion of alternative sentencing policies (other than incarceration) and have a serious dialogue regarding the status of felons post-release from prison and the obstacles to successful re-entry into society.

**The Administrative Committee recommends that the Supreme Court refer this recommendation to BJA for discussion and recommended action with a response back to the Supreme Court.**

*Task Force Recommendation #7*—Encourage and advocate for an increase in pretrial diversion programs, alternatives to arrest, and the expansion of therapeutic courts.

**The Administrative Committee recommends that the Supreme Court refer this recommendation to BJA for discussion and recommended action with a response back to the Supreme Court.**

*Task Force Recommendation #8*—Develop and implement through the center for court research a rigorous method for evaluating whether any initiative undertaken to reduce racial disparity in the criminal justice system does in fact reduce racial disparity.

**The Administrative Committee recommends the court refer this recommendation to Washington State Center for Court Research (WSCCR) to Judge Ann Schindler, chair of WSCCR, and to Jeff Hall to determine whether WSCCR can accomplish the task and determine the cost involved.**

### **Task Force Recommendation #1.**

"Participate and exercise leadership in the public dialogue on race within our justice system. Institutionally create and/or empower an entity to address these concerns publicly and to play a leadership role in oversight."

### **Implementation Proposal**

- The Minority and Justice Commission, as a Supreme Court Commission, should take the leadership role in the public dialogue and the educational efforts on race. The history and existence of the Commission make it unnecessary to establish another group or committee. *See* Appendix "1A" for History and Publications. The Commission should be designated as the entity charged with implementing the Task Force recommendations.
- The Board for Judicial Administration Resolution on Race provides an excellent opportunity for the Commission and BJA to collaborate on a court-wide (all levels of court) effort to bring wider attention to the issues of disproportionality and disparity. *See* Appendix "1B" BJA Resolution 2011.
- The audience of these educational efforts should remain the wider public community but there should be an emphasis on judicial officers.
- Although there are many intersections and overlap of numerous social issues involving access to justice, the subject of race should be the primary focus of these educational opportunities.

## **Task Force Recommendation #2.**

"Commit to a series of forums on specific issues related to race in the criminal justice system so that specific and detailed recommendations for real change might be achieved."

## **Implementation Proposal**

- The education symposium by the Task Force at the Temple of Justice was noted for its effectiveness and should be used as a model for future forums. Thus, the Washington Supreme Court should commit to an annual half day symposium or forum on race and justice. Such a forum could be called, "The Annual Washington State Supreme Court Forum on Race and Justice" with specific issues addressed in depth. The forum should be open to the public and available through TVW, and could be held in different parts of the State. Webcasting the symposium might attract more interest if continuing education credits on ethics could be obtained for lawyers and judges.
- Each Supreme Court Justice should commit to attending such forums since it would be an opportunity for the Court to become more visible in local communities and for the Justices to hear from diverse populations across the state.



### **Task Force Recommendation #3.**

"Commit to the ongoing education of judges at all levels and direct the staff at AOC to actively support the judicial conferences in funding and supporting fact based quality presentations on the problems of bias and racial disparity. Encourage judges to undergo training on pre-trial and bail screening instruments to reduce racial disparity among the detained/incarcerated population."

### **Implementation Proposal**

- The Board for Court Education (BCE) should require mandatory judicial education on issues related to racial justice. This mandatory education could be developed as part of the ethics requirements. Supreme Court Justices should participate and serve as leaders in judicial educational programs.
- The racial justice curriculum for judges should have a practical component, with tips and tools offered to judges on avoiding disparate racial impact which may result from their decision-making. In addition, "experiential" programs should be offered that will sensitize judges to how various minority groups experience our justice system. The Minority and Justice Commission, in collaboration with the Judges' Associations and with staff support from AOC educators, should take a leadership role in planning and securing funding for this initiative.
- There should be education on racial justice that includes lawyers and law students. The Washington State Bar Association and the three law schools should be invited to develop programs that will encourage lawyers and students to become educated on these issues.
- The staff at the Administrative Office of the Courts (AOC) in concert with the Judges' Associations should continue to work on developing and promoting the use of pre-trial release tools in accordance with CRr3.2. Because counties and courts may utilize different tools, AOC should explore and survey what tools courts around the state at all levels are using and the Center for Court Research should evaluate whether such tools are scientific and actually comport with the court rule. Any tool should be validated for diverse populations and take into consideration limited economic circumstances. Risk assessment tools and pre-trial and bail screening instruments should be identified and evaluated in an effort to reduce racial disparity among the detained/incarcerated populations. The AOC should create and distribute a survey to judicial officers.

#### **Task Force Recommendation #4**

"Direct the Washington State Center for Court Research to study and publish data regarding the incarceration of minority populations and undertake a review of race neutral policies, practices and laws that may contribute to racial disproportionality with the goal of publishing such information and keeping the data fresh and updated."

#### **Implementation Proposal**

Accurate data collection regarding the State's prison and jail population is critical for any credible exploration of incarceration rates and whether racial disproportionality exists. The Department of Corrections possesses data on those incarcerated in our state prisons and most county jails collect demographic information and report statistical information to the Washington Association of Sheriffs and Police Chiefs. However, the data is not linked to other data bases that would allow for meaningful study. For example, there is little data readily available from courts across the state that would allow for a comparison of information related to arrests, filings, or convictions without detention, and sentencing practices on felonies that have been reduced to misdemeanors. In addition, as evidenced in Attachment "4A", the breakdown by race or ethnicity for some large counties is sorely lacking. For example, it appears that there is no reliable data on the incarcerated Latino population in King County because they are generally categorized as Caucasian with no other ethnic information.

A primary source of statistics for felony conviction data was the Sentencing Guidelines Commission. The recent legislative session eliminated the Sentencing Guidelines Commission as an independent agency. Effective July 1, 2011 it became an advisory agency located within the Office of Financial Management. The Caseload Forecast Council has assumed responsibility for the Commission's adult felony and juvenile disposition databases, the annual sentencing statistical summaries, and the sentencing manuals. While the enabling statute requires that the Council develop a computerized data base of adult and juvenile felony dispositions, there still needs to be a broader and more comprehensive collection of information that includes misdemeanors.

The subcommittee recommends that the Center for Court Research be directed to:

- Collect the information and data that is currently available regarding prison and jail populations and make it available on the AOC web site for judicial officers and court staff. There is a multitude of data bases and sources of information and it would be helpful to have the data or access to the data (web sites) organized in one single location and linked to one another.
- Document the existing practices of how data on race and ethnicity is collected by various agencies within the criminal justice system. Advocacy for uniformity and inclusiveness in data collection will be easier if a framework is created and if there is a baseline of information, including information from courts.

- Identify the risk assessment tools and practices that courts around the state are utilizing in making pre-trial release decisions and evaluate their scientific reliability (see proposal related to #3). The tools should be made available on the AOC web site.
- Once the data on incarceration rates is refreshed and available, the subcommittee recommends that that the review of racially neutral policies as requested by the Task Force be undertaken under the sponsorship of the Minority and Justice Commission in collaboration with the three laws schools. An expected outcome of the review would be a set of proposals for reducing disproportionality. These might include proposals to replicate the DWLS relicensing projects undertaken by the City of Spokane and the King County District Court, for example.

### **Task Force Recommendation # 5**

"Undertake a critical review of each stage of our criminal proceedings in all of our trial courts to examine whether there might be practices that might have developed over time that contribute to racial disparity and commit to addressing these practices either by training or court rule."

### **Implementation Proposal**

- The subcommittee recommends establishing a Task Force under the auspices of the Minority and Justice Commission to undertake a review of practices at the trial court level that contribute to racial disparity. The composition of the Task Force would include judges from the Superior Court Judges' Association and the District and Municipal Court Judges Association, prosecutors and defense counsel.
- Practices of concern include accepting pleas at arraignment without the opportunity for defense counsel to be appointed, paying fines in lieu of jail or trading treatment costs for jail time, recording failures to pay as failures to appear, and issuing bench warrants for failure to pay legal financial obligations. This recommendation includes affirmatively seeking financial support for this project from outside funding sources (grants from private foundations and the Department of Justice) so that the project would be adequately staffed and completed in a timely manner. We believe that a factual review of practices would permit these issues to be addressed by court rule and/or judicial education
- The Minority and Justice Commission drafted the revised Criminal Rule 3.2 regarding pre-trial release. The next logical step is to encourage "on the record" consideration of the factors listed in the rule and to provide a form that assists a judicial officer in making such findings. The Commission has developed pretrial release order forms for both superior and limited jurisdiction courts that are underutilized. *See* Attachment "5A". The Minority and Justice Commission in collaboration with the education committees of the Judges' Associations should provide judicial education on the topic.

### **Task Force Recommendation #6**

"Support the expansion of alternative sentencing policies (other than incarceration) and have a serious dialogue regarding the status of felons post-release from prison and the obstacles to successful re-entry into society."

### **Implementation Proposal**

- The subcommittee recognizes that there has been significant work undertaken by a number of counties and the Superior Court Judges' Association, at the state level, to support alternative drug sentencing laws which have in fact reduced recidivism. Thus, the subcommittee recommends that the Court host an educational forum for the Legislature on the success of sentencing alternatives and treatment courts in reducing recidivism. The primary focus would be to highlight some of the success stories achieved by therapeutic courts. *See Implementation Proposal #7 and Attachments thereto.*
- The second part of the recommendation is to learn about the obstacles that convicted felons face post-release and to explore how courts might assist individuals in re-entering society. There are "re-entry courts" being developed in other parts of the country and the subcommittee recommends that the Minority and Justice Commission be asked to compile information about these courts and make the information available to our courts as a way to explore the judiciary's role in a felon's re-entry and reduction in recidivism. *See Attachments "6A" - "6D"*. In addition to the challenges of being a convicted felon, the subcommittee became aware of alleged practices in some limited jurisdiction courts of allowing convicted individuals to circumvent treatment or the payment of fines in exchange for jail time. The subcommittee recommends that the Minority and Justice Commission be asked to research whether such practices are occurring in municipal, district courts and superior courts.

### **Task Force Recommendation #7**

"Encourage and advocate for an increase in pre-trial diversion programs, alternatives to arrest, and the expansion of therapeutic courts."

### **Implementation Proposal**

- The subcommittee recommends that the Court ask the Minority and Justice Commission to: 1) compile and publish a list of all therapeutic courts operating in our state; 2) compile and make available on a single web site the rates of recidivism of such courts and/or other studies regarding their effectiveness. The information would assist the Court and Judges' Associations to become better advocates of these programs; *See Sampling of Examples in Attachments "7A" – "7F"* and 3) work with the Executive and Legislative branches to provide express authority to use pre-trial diversion programs in courts of limited jurisdiction.

### **Task Force Recommendation #8**

"Develop and implement through the center for court research a rigorous method for evaluating whether any initiative undertaken to reduce racial disparity in the criminal justice system does in fact reduce racial disparity."

### **Implementation Proposal**

- The subcommittee is aware that a number of projects and programs have been undertaken over the last ten years that were intended to reduce racial disproportionality. The subcommittee is also aware that success cannot always be measured by numbers alone. Thus, the subcommittee recommends that the Washington State Center for Court Research work with the Task Force to design an instrument or method for evaluating whether any of the initiatives have been effective in reducing racial disparity.





**CONFERENCE OF CHIEF JUSTICES  
CONFERENCE OF STATE COURT ADMINISTRATORS**

**Resolution 7**

**In Support of the Guiding Principles on  
Using Risk and Needs Assessment Information in the Sentencing Process**

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution in 2007 in support of sentencing practices that promote public safety and reduce recidivism; and

WHEREAS, research has demonstrated that the use of validated and reliable offender risk and needs assessment information to inform supervision and treatment decisions is a critical component of effective strategies to reduce recidivism; and

WHEREAS, the National Center for State Courts, with funding from the Pew Public Safety Performance Project and the State Justice Institute, established a National Working Group to develop guidance for courts in using risk and needs assessment information to inform the sentencing process; and

WHEREAS, the National Working Group was led by the Honorable Sue Bell Cobb, Chief Justice of Alabama and the Honorable Gerald A. Marroney, State Court Administrator of Colorado, and included representatives from the criminal justice system involved in the sentencing process; and

WHEREAS, the National Working Group has produced a report, Using Offender Risk and Needs Assessment Information at Sentencing: Guidance for Courts from a National Working Group, describing a set of guiding principles, informed by research and practice, to help courts incorporate risk and needs assessment information into the sentencing process;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators:

- Support the National Working Group's recommendation that offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism; and
- Endorse the guiding principles described in the National Working Group's report as a valuable tool for state courts in crafting policies and practices to incorporate offender risk and needs assessment information in the sentencing process; and

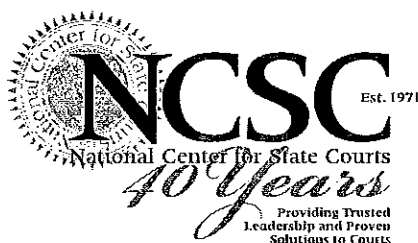
- Encourage state and local courts to review the guiding principles and work with their justice system partners to incorporate risk and needs assessment information into the sentencing process.

Adopted as proposed by the CCJ/COSCA Criminal Justice Committee at the 2011 Annual Meeting on August 3, 2011.

# Using Offender Risk and Needs Assessment Information at Sentencing

## Guidance for Courts from a National Working Group

Pamela M. Casey  
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Jennifer K. Elek



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Note: All blue underlined copy is hyperlinked in the online version of the document, available at [www.ncsconline.org/csi](http://www.ncsconline.org/csi).

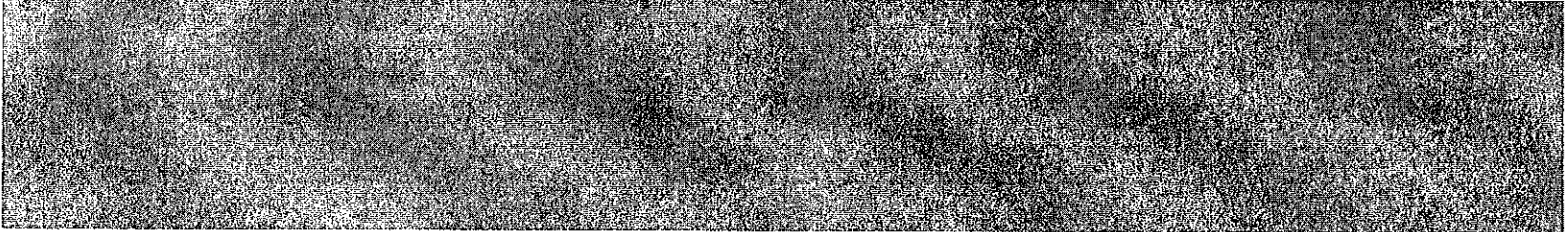
# Introduction

During the last two decades, substantial research has demonstrated that the use of certain practices in criminal justice decision making can have a profound effect on reducing offender recidivism. One of these practices is the use of validated risk and needs assessment (RNA) instruments to inform the decision making process. Once used almost exclusively by probation and parole departments to help determine the best supervision and treatment strategies for offenders, the use of RNA information is expanding to help inform decisions at other points in the criminal justice system as well. The use of RNA information at sentencing is somewhat more complex than for other criminal justice decisions because the sentencing decision has multiple purposes—punishment, incapacitation, rehabilitation, specific deterrence, general deterrence, and restitution—only some of which are related to recidivism reduction. This document provides guidance to help judges and others involved in the sentencing decision understand when and how to incorporate RNA information into their decision making process.

Given the research evidence, the National Working Group recommends that judges have offender assessment information available to inform their decisions regarding risk management and reduction.

The *Guide* begins with a discussion of why courts should consider the use of RNA information in their sentencing decisions, reviews the principles of a research- or evidence-based approach to sentencing, identifies other uses of risk assessments not covered in the *Guide*, and offers a set of Guiding Principles for incorporating RNA information into the court's sentencing decisions. The *Guide* and its Principles are the result of the deliberations of a National Working Group on Using Risk and Needs Assessment Information at Sentencing, interviews with practitioners in jurisdictions that have or are considering using RNA information at sentencing, and a review of relevant literature. The National Working Group offers the *Guide* as a starting point for courts using offender assessment information with the understanding that its advice will continue to be refined as new research and lessons from the field expand current knowledge.

As used in this *Guide*, “recidivism reduction” refers to reduced reoffending of *any* offense; it does not refer to a particular category of offenses such as violent offenses.



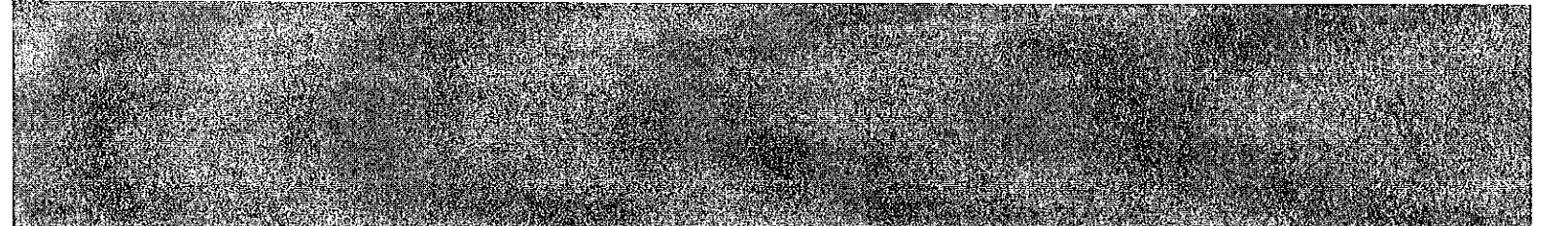
Significant work has been underway during the last three decades to identify evidence-based sentencing and corrections practices that work. The *Guide* does not include a full review of this voluminous work; rather it provides an overview of key concepts and findings and provides references for those readers interested in learning more. When available, the authors cite internet sources that can be accessed directly from the online version of the *Guide*.

## Why the Need to Change?

State court judges sentenced a staggering 1.1 million felony offenders in 2004 (Durose & Langan, 2007). A sample of felony defendants from the nation's 75 most populous counties during that same year revealed that more than 75 percent had a prior arrest history, and 53 percent had at least five prior arrest charges (Kyckelhahn & Cohen, 2008). Another study of nearly 275,000 prisoners released in 1994 found that two-thirds were rearrested for a new offense within three years (Langan & Levin 2002). Recent reports by the Pew Center

on the States (2008, 2009) revealed that 1 in 100 adults is behind bars, and 1 in 31 adults is under some form of criminal supervision. Judges know these statistics first-hand. Their crowded dockets are filled with offenders they have seen before or, unfortunately, are likely to see again; and they understand the toll these statistics take on public safety, system resources, and, ultimately, the public's trust in the criminal justice system.

The public understands these statistics, too. A 2006 survey of the public sponsored by the National Center for State Courts (NCSC) found that 75 percent of the respondents thought sentencing practices needed some or major changes, 79 percent thought that many offenders could be rehabilitated, 59 percent thought prisons are unsuccessful at rehabilitation, and 88 percent thought that alternative sentences for non-violent offenders should be used often or sometimes (Princeton Survey Research Associates International, 2006). When asked who should lead sentencing reform efforts, 66 percent of the respondents thought that judges should have a leading or big role in the effort. The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), the policy leaders of the state



courts, agree. In 2006, they supported the establishment of the NCSC's national sentencing reform project "Getting Smarter about Sentencing." As part of that effort, the NCSC surveyed CCJ and COSCA members regarding priorities for the project. The court leaders identified (a) expanding use of evidence-based practices and risk and needs assessment tools and (b) promoting community-based alternatives to incarceration for appropriate offenders as the most important objectives for the project (Peters & Warren, 2006, p. 11). In 2007, CCJ and COSCA passed a resolution "In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism" that called for adoption of sentencing and corrections policies and practices that are effective, as determined through research and evaluation, in reducing recidivism. The resolution specifically noted the importance of using validated offender RNA tools in reducing recidivism and elevated recidivism reduction as an important consideration in the sentencing process, a sentiment since echoed by many court leaders

such as Missouri's Chief Justice Ray Price (2010) in his State of the Judiciary speech:

"There is a better way. We need to move from anger-based sentencing that ignores cost and effectiveness to evidence-based sentencing that focuses on results — sentencing that assesses each offender's risk and then fits that offender with the cheapest and most effective rehabilitation that he or she needs."

# The Way Forward: Judicial Leadership

The Guiding Principles provide the framework for jurisdictions to incorporate RNA information into sentencing decisions. Jurisdictions vary in terms of their local legal and service cultures, availability of resources, and as noted in Guiding Principle 6, infrastructure readiness to implement a sentencing process in which the availability of RNA information is routine. Thus there is no one model for moving forward with adoption and implementation of these principles. Each state and local jurisdiction will determine its own best path. What is universal is the undeniable importance of judicial leadership in promoting and supporting adoption and implementation. Successful adoption and implementation require a collaborative process, and the judge serves as the linchpin in that process (e.g., [Stroker, 2006](#)).

In jurisdictions where RNA information already is provided at the time of sentencing, the judge's role may be to work with the other stakeholders to review the process, surface potential issues, and make modifications, as necessary. In such instances, the judge need not usurp the role of other stakeholders who may be leading the effort but can offer additional support to efforts already underway, encourage more reticent stakeholders to participate, and serve as a champion, for example, to expand the use of RNA information at sentencing to a broader range of offenders or build greater system capacity for evidence-based supervision and treatment services. In multi-judge courts, judicial leadership also may be necessary to convince colleagues of the benefits of using RNA information at sentencing and of adopting court policies and/or procedures supporting the practice.

[W]e pretty much did it from the probation department out trying to get the stakeholders involved in that leadership role. And I think there's only so far you can go with that. And there comes a point when it becomes obvious to you that it would be a real blessing for your judges to lead this simply because your judges can get your stakeholders together in discussing some of the more controversial aspects of this and arriving at a consensus and decision. And so, I believe I would love one of our judges to say let's move this even further than we've already done it.

National Working Group Participant, September 2010



In jurisdictions where there is interest in using RNA information at sentencing but no process yet for doing so, the judge can initiate discussions with probation regarding the potential for providing such information. The judge can explore probation's organizational readiness (see Guiding Principle 6) and identify potential strategies to support or enhance an evidence-based system of community corrections.<sup>17</sup> The judge can also build support among other members of the bench by promoting opportunities for learning about the benefits and use of RNA information at sentencing (see Guiding Principle 4). Once these steps have been taken and the judiciary and probation are ready to move forward, the judge can convene a larger group of stakeholders to discuss broader implementation issues and concerns. Critical stakeholders will vary across jurisdictions but should include representatives of the court, prosecution, defense, and probation and/or community corrections. In addition, stakeholders should consult representatives of other constituencies such as victims and service providers, and other components of the criminal justice system such as jail administrators and pretrial and parole agencies that may also be using some form of RNA assessments, at relevant points in this process to ensure their perspectives

[W]hile leadership can come from different facets of the justice system or community, judges are well positioned to lead reform efforts because of their unique ability to convene stakeholders...

Conference of Chief Justices and Conference of State Court Administrators (2006)

and potential assistance are understood. To enhance the productivity of the meetings, discussions should be built around available data (e.g., number of offenders receiving various sentences, number of probation violations/revocations, and recidivism rates among probationers) and current stakeholder policies and practices affecting the progression of cases through the system, as well as the benefits of and concerns about using RNA information (see, for example, [Carter, 2006](#)). Focusing on data and an analysis of existing practices provides an opportunity to identify mutually acceptable strategies for moving forward (e.g., collecting additional data, learning more about specific assessment instruments, contacting other jurisdictions using RNA information at sentencing, identifying a target population of offenders for a pilot effort), while taking into consideration current stakeholder concerns and constraints.<sup>18</sup>

<sup>17</sup> The strategies resulting from these discussions likely will differ for probation departments that are the responsibility of the judicial branch versus those that are the responsibility of the executive branch. However, judicial leadership in beginning the discussions and identifying strategies to support the implementation of the Guiding Principles is important and necessary in either system.

<sup>18</sup> The National Institute of Corrections (NIC) has an initiative underway to incorporate evidence-based decision making into key criminal justice decision points to reduce risk and harm. Seven local jurisdictions are piloting the approach, which involves stakeholder collaboration and the use of RNA information at various points in the process. To learn more about this effort, see NIC's [Evidence-Based Decision Making](#) Web page.

In jurisdictions that have not expressed any interest in using RNA information, the judge can begin, as described above, by initiating conversations with the bench and probation. However, the judge also may need to build receptivity to the general idea of a more evidence-based approach to sentencing and corrections through conversations with colleagues, other criminal justice stakeholders, local executive and legislative officials, and community members. Change is hard, and many individuals are risk averse. Providing information regarding how the use of RNA information at sentencing can improve public safety, reduce recidivism, and, in many cases, reduce the significant costs associated with incarceration, will help overcome resistance to the idea. Recent public opinion polls (e.g., Hartney & Marchionna, 2010; Public Opinion Strategies & Benenson Strategy Group, 2010) demonstrating that the public is willing to consider options other than prison if public safety is still maintained also may encourage some stakeholders to consider alternative approaches to “business as usual.”

These local jurisdiction efforts should be coordinated with and supported by efforts at the state level as well. State court leaders should reinforce recidivism reduction as an explicit goal of sentencing and promote the

use of RNA information in the sentencing process. Advocating for and supporting the use of RNA information can be done through various methods such as statewide conferences, establishment of specific committees, creation of organizational centers and initiatives, overseeing pilot programs, and working to incorporate evidence-based practices into legislation. Examples of such state court efforts are:

- Alabama’s chief justice established the Alabama Public Safety and Sentencing Coalition of state leaders to develop evidence-based solutions to improve public safety and reduce recidivism. She

This workshop was an historic moment for Alabama. It was the first time judges, probation officers and district attorneys sat down together and took an honest look at the state of our corrections system. It was also the first time many of our sitting judges stepped behind prison walls. We are all frustrated with the system. But by working together, we can create a safer Alabama. We can make the public safer and save tax dollars.

Chief Justice Sue Bell Cobb (2010)

also convened a statewide sentencing and corrections policy workshop to discuss alternative sentences and reentry and treatment services available to reduce recidivism (Chief Justice Sue Bell Cobb, 2010). The workshop included a tour of correctional facilities.

- The former chief justice of Arizona established the Center on Evidence-Based Sentencing (Arizona Supreme Court, 2007) and, as noted in Guiding Principle 8, required the development of a standardized, evidence-based presentence report (Arizona Supreme Court, 2009).
- In 2007 and 2008, the California court system sponsored two statewide meetings on evidence-based practices, recidivism reduction, and related sentencing and corrections topics. The court system is implementing recommendations resulting from the last meeting that, in part, call for an emphasis on recidivism reduction as a primary purpose of sentencing and probation (see Warren, 2010, p. 188 and note 43). In addition, the California Risk Assessment Pilot Project is promoting and

evaluating the use of RNA information in sentencing and probation revocation proceedings in selected counties in the state (California Courts, 2011).

- Idaho's chief justice ordered the creation of a Felony Sentencing Committee to identify and implement evidence-based sentencing practices (Supreme Court of the State of Idaho, 2009).
- Oregon's Judicial Conference adopted a resolution in 1997 encouraging judges and advocates to address recidivism reduction in sentencing decisions and seek training on the effectiveness of sentencing options in reducing recidivism (Oregon Judicial Conference, 1997). In addition, Oregon's chief justice recently joined with the other branches of government to support a comprehensive review of sentencing through the Commission on Public Safety (Office of the Governor, State of Oregon, 2010).

- The South Carolina judiciary was an active member of the Sentencing Reform Commission which developed sweeping criminal justice reforms embracing evidence-based practices. The reforms subsequently were adopted by the state's legislature (Pew Center on the States, 2010).
- Utah's Sentencing Alternatives Committee is collaborating with other stakeholders to promote evidence-based policies and practices in the criminal justice system (Utah Judicial Council, 2009, pp. 4-5).
- Washington's Superior Court Judges' Association and Sentencing Guidelines Commission created an Evidence Based Community Custody Workgroup to develop sentencing and community custody practices based on risk and protective factors and aimed at reducing recidivism (Washington Board for Judicial Administration, 2009).

- The Wisconsin Court System's Effective Justice Strategies Subcommittee (2011), charged with identifying policies and programs that increase public safety and reduce incarceration, is supporting the efforts of several jurisdictions across the state in piloting the use of RNA information at sentencing.

These are just some of the judicial efforts already underway to promote greater use of evidence-based sentencing practices, and that demonstrate the variety of activities that state courts can undertake both on their own and in concert with other branches of government and criminal justice stakeholders. These types of efforts at the state level to address needed changes in statutes, policies, and practices will facilitate and enhance the effectiveness of efforts on the local level.

Justice Madsen stated there is a Youth Court Conference at Seattle University tomorrow and she will give the opening remarks.

**Court of Appeals:** Judge Appelwick stated the Court of Appeals is basically just trying to get through the budget reductions and look at caseload.

**Superior Courts:** Judge Eitzen shared that it was a long, painful session. The SCJA has been working with Mr. Hall and Ms. McDougall to go paperless during SCJA Legislative Committee meetings for easier navigation through the meeting materials. The SCJA will be using technology more this coming session and they have discussed using legal externs to assist with tracking bills.

The Evidence Based Community Custody Workgroup was created and it is co-chaired by Judge Kathleen O'Connor and King County Prosecuting Attorney Daniel Satterberg. It is a joint effort by the SCJA and Sentencing Guidelines Commission to develop a system of sentencing and community custody based on a systematic determination of risk and protective factors, using evidence-based interventions aimed at reducing recidivism. This is based on the findings of the Washington Institute for Public Policy's report of October 2006 and the current juvenile court management model.

The SCJA created a new communications and media work group. The group will work 1) on better communications with the SCJA membership throughout the year, and 2) communications with the media. The SCJA members can access the workgroup and will assist with getting information to the media.

The SCJA Long-range Planning meeting will take place the second weekend in June.

The vision retreat will be held in July. The retreat participants are the SCJA Family and Juvenile Law Committee members and the Juvenile Court Administrators and they work together to develop a vision for juvenile courts.

**Courts of Limited Jurisdiction:** Judge Paja reported that this is her last meeting as the President of the DMCJA but she will attend the June BJA meeting. She was unable to attend the recent DMCJA Long-range Planning and Board meetings because she was attending the American Bar Association National Summit, *Justice is the Business of Government: the Critical Role of Fair and Impartial State Courts* in Charlotte, North Carolina.

Judge Phillips said the DMCJA Board retreat was held at Suncadia and they had a presentation by Ms. Joanne Moore, from the Office of Public Defense, regarding driving while license suspended in the third degree issues, indigent defense funds, and court access to defense funds.

**Conference of Chief Justices  
Conference of State Court Administrators**

**Resolution 13**

**In Support of the Model Time Standards for State Trial Courts**

WHEREAS, time standards promote the fair and expeditious disposition of cases, establish goals for court and case management, set expectations for the public and the bar, stimulate innovations in court procedures and programs, and foster internal and external accountability; and

WHEREAS, the National Time Standards promulgated by the Conference of State Court Administrators (COSCA) in 1983 and the Time Standards adopted by the American Bar Association (ABA) in 1992 have served as useful models for individual courts and state court systems throughout the nation; and

WHEREAS, there have been significant advances in case management and court automation since the COSCA and ABA Time Standards were drafted; and

WHEREAS, the improvements in communications and the speed with which transactions can be completed have resulted in dramatic changes in the public's expectations regarding the appropriate pace and efficiency of government as well as business operations; and

WHEREAS, a broadly-based committee led by COSCA, including representatives of the Conference of Chief Justices, the American Bar Association, the National Association for Court Management, the National Judicial College, and the Institute for the Advancement of the American Legal System, with staff support from the National Center for State Courts, has prepared a revised, more comprehensive set of model time standards and recommendations regarding their use and implementation, based upon a review of existing national and state time standards, the experience in utilizing those standards, and available data on the time to disposition in all types of cases; and

WHEREAS, these model time standards are designed for use by the judicial branch leadership of each state as a basis for developing or updating state time standards covering general and limited jurisdiction trial courts, that take into account the procedures, statutory time periods, jurisdictional structure, demographic and geographic factors, and resources of their state;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators endorse the Model Time Standards for State Trial Courts and urge their members to use them as a basis for establishing judicial branch time standards in their states.

Adopted as proposed by the CCJ/COSCA Court Management Committee at the 2011 Annual Meeting on August 3, 2011.

# Model Time Standards

**FOR STATE TRIAL COURTS**

## **Reporters**

Richard Van Duizend

David C. Steelman

Lee Suskin

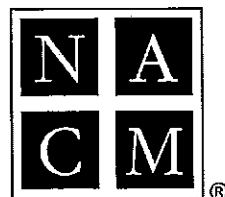
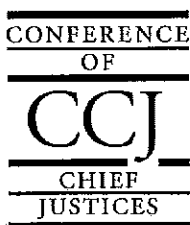
**These Model Standards were approved in August 2011 by the:**

Conference of State Court Administrators

Conference of Chief Justices

American Bar Association House of Delegates

The National Association for Court Management





## INTRODUCTION

Since their first formal articulation, time standards establishing expectations for timely justice in American courts have been elaborated and refined. After having adopted speedy trial standards for criminal cases in 1968, the American Bar Association adopted standards for other case types as well in 1976, amending them in 1984 and again in 1992. The Conference of State Court Administrators promulgated national time standards for cases in the state courts in 1983. Over three quarters of the states have now adopted their own case disposition targets.

This document is the result of a two-year review of the more than 40 years of experience with time-to-disposition standards. This review is appropriate. The first decade of the 21st Century has witnessed the coming of age of the Internet and dramatic changes in the way in which ordinary people conduct financial transactions (e.g., banking, stock purchases and sales, and on-line purchasing of airline tickets and many goods and services), and many other business activities (such as music and movie distribution). Information on most topics is now immediately available from virtually any location. Communications with other persons anywhere on the globe are almost instantaneous, and available in text, voice and video media. The public

is becoming accustomed to very fast turnaround and convenience in dealing with commercial and governmental entities.

Court processes, on the other hand, have changed only marginally. While many courts now make information available online and are gradually incorporating electronic transactions for filings, service, and payments, the case disposition process remains virtually the same as it has been since the introduction of the Federal Rules of Civil Procedure in 1938. Surveys of public opinion concerning the courts consistently find the chief complaint to be the slowness of case resolution. A study in New Mexico showed that litigants desire to have their civil and family cases decided within one or two months of filing. Thus, there is a substantial disconnect between public expectations for the timeliness of court decisions based on the current pace of business, and the current pace of the American judicial system.

The time to disposition standards set forth in this document, based on a review of the experience of state courts, are intended to establish a reasonable set of expectations for the courts, for lawyers, and for the public.<sup>1</sup> They reflect a review of the case disposition times

<sup>1</sup> Much of the formal research studies cited were conducted more than a decade ago and focused heavily on courts with medium to high caseloads. However, the experience since then such as the examinations of state and federal courts conducted by the Institute for the Advancement of the American Legal System (IAALS, *Civil Case Processing in the Federal District Courts: A 21st Century Analysis* (2009) [www.du.edu/legalinstitute/form-PACER-success.html](http://www.du.edu/legalinstitute/form-PACER-success.html); *Civil Case Processing in the Oregon Courts* (2010) [www.du.edu/legalinstitute/pubs/civilcase.pdf](http://www.du.edu/legalinstitute/pubs/civilcase.pdf)) and current statewide and trial court data provided by several jurisdictions strongly suggest the continued validity of the findings of those studies as well as the principles and practices they recommend. See e.g., [www.utcourts.gov/courttools/](http://www.utcourts.gov/courttools/); [www.mass.gov/courts/cmab/metrics-report-2009.pdf](http://www.mass.gov/courts/cmab/metrics-report-2009.pdf); [www.courts.mo.gov/file.jsp?id=43761](http://www.courts.mo.gov/file.jsp?id=43761); [www.mncourts.gov/Documents/Public/Other/Annual\\_Report\\_2010\\_Performance\\_Measures\\_Public\\_Posting.pdf](http://www.mncourts.gov/Documents/Public/Other/Annual_Report_2010_Performance_Measures_Public_Posting.pdf); [www.superiorcourt.maricopa.gov/MediaRelationsAndCommunityOutreach/Publications/reports.asp](http://www.superiorcourt.maricopa.gov/MediaRelationsAndCommunityOutreach/Publications/reports.asp). Nonetheless, there remains an obvious need for continuing research on caseload management across multiple case types in state courts of varying sizes to maintain the currency of our knowledge of this critically important subject and to identify the practices used in courts with the best performance in resolving cases in a timely manner.

currently being achieved in selected jurisdictions around the country as well as consideration of the various time standards adopted by states, local jurisdictions, and national organizations. The final section of the document suggests a process for use by a state judicial branch to implement standards in its jurisdiction. It also shows how the time standards can be used to assist a court, and the courts of a state, to improve the timeliness of case disposition and improve the court's service to the litigants.

These are "Model Time Standards." They are intended to unify the current sets of disparate national time standards to the greatest degree possible. The model standards are designed for use by the judicial branch of each state as a basis for establishing its own time standards covering general and limited jurisdiction courts, regardless of the source of funding for those courts. For the courts, the state standards set forth achievable goals. For lawyers, state standards establish a time framework within which to conduct their fact-gathering, preparation, and advocacy activities. For members of the public, state standards are intended to define what can be expected of their courts.

As indicated in Implementation Standard 1, state time standards should be promulgated by court leaders in communication and consultation with all key justice partners. State time standards should take into account state procedures, statutory time periods, jurisdictional conditions, demographic and geographic factors, and resources. The judicial branch time standards, including appropriate

standards for key intermediate points in the process, should establish the timeliness goals against which the delivery of judicial services by courts within the state should be measured. However, they should not be considered as a rule governing individual cases or creating rights for individual litigants.

With few exceptions, these standards run from *the date of filing to the date of disposition by entry of judgment*. The running of time is suspended under any of these standards by such occurrences as:

- The filing of an interlocutory appeal.
- Federal bankruptcy proceedings during pendency of a civil matter.
- Failure to appear and issuance of a bench warrant for a criminal defendant.
- Treatment to restore the competency of a criminal defendant found not to be competent to stand trial.<sup>2</sup>

The standards offered here reflect a recognition that there normally is a large proportion of cases that are disposed with little court involvement; a second proportion that dispose after one or two issues are resolved (e.g., a suppression motion); and the smallest proportion do not resolve without a trial. This tripartite model is reflected in many differentiated case management systems. Based on this understanding, the standards provide a first tier time period within which 75 percent of the filed cases should be disposed; a second tier time period within which 90 percent of the filed cases should be disposed; and a third tier time period within which 98 percent of filed cases should

<sup>2</sup> These are illustrative examples. Jurisdictions may identify other events which appropriately should be excluded from the time to disposition calculation, though these should be kept to a minimum.

## TABLE OF MODEL TIME STANDARDS

Case Category	Case Type	COSCA Standard	ABA Standard	Model Standard
CRIMINAL	Felony	100% within 180 days	90% within 120 days 98% within 180 days 100% within 365 days	75% within 90 days 90% within 180 days 98% within 365 days
	Misdemeanor	100% within 90 days	90% within 30 days 100% within 90 days	75% within 60 days 90% within 90 days 98% within 180 days
	Traffic and Local Ordinance			75% within 30 days 90% within 60 days 98% within 90 days
	Habeas corpus and similar Post-conviction proceedings (following a criminal conviction)			98% within 180 days
CIVIL	General Civil	100% of non-jury within 12 months 100% jury trials within 18 months	90% within 12 months 98% within 18 months 100% within 24 months	75% within 180 days 90% within 365 days 98% within 540 days
	Summary Matters			75% within 60 days 90% within 90 days 98% within 180 days
FAMILY	Dissolution/Divorce/Allocation of Parental Responsibility	100% uncontested within 3 months 100% contested within 6 months	90% within 3 months 98% within 6 months 100% within 12 months	75% within 120 days 90% within 180 days 98% within 365 days
	Post Judgment Motions			98% within 180 days
	Protection Orders			90% within 10 days 98% within 30 days
JUVENILE	Delinquency & Status Offense		90% within 3 months 98% within 6 months 100% within 12 months	For youth in detention: 75% within 30 days 90% within 45 days 98% within 90 days For youth not in detention: 75% within 60 days 90% within 90 days 98% within 150 days
	Neglect and Abuse		90% within 3 months 98% within 6 months 100% within 12 months	Adjudicatory Hearing 98% within 90 days of removal Permanency Hearing 75% within 270 days of removal 98% within 360 days of removal
	Termination of Parental Rights		90% within 3 months 98% within 6 months 100% within 12 months	90% within 120 days after the filing of a termination petition 98% within 180 days after the filing of a termination petition
PROBATE	Administration of Estates			75% within 360 days 90% within 540 days 98% within 720 days
	Guardianship/ Conservator of Incapacitated Adults			98% within 90 days
	Civil Commitment			98% within 15 days

# **CONFERENCE OF CHIEF JUSTICES CONFERENCE OF STATE COURT ADMINISTRATORS**

## **Summary of Resolutions Adopted at COSCA 2011 Annual Meeting, August 2011**

### **BUDGET/FUNDING**

#### **Resolution – In Support of the State Justice Institute (COSCA only)**

Summary: The SJI was established by Congress in 1984 to ensure federal support and assistance for state court initiatives that promote national policies and interests in improving the fair and effective administration of justice.

Resolved: Strongly urge Congress to maintain a funding level for SJI of no less than the amount appropriated in FY 2010.

#### **Resolution 8 – In Support of Reauthorization of Court Improvement Programs**

Summary: The Conferences have made child welfare system reform a priority and have undertaken a multi-year initiative to strengthen court oversight of child welfare cases. The Deficit Reduction Act of 2005 required and encouraged collaboration between courts and public child welfare agencies and authorized two new grants under the Court Improvement Program (CIP). The CIP funds have been critical in accomplishing reform efforts but more efforts are needed. At the request of NCSC, the State Court Administrator and Chief Justice are both sending letters to Sen. Murray and Congressman McDermott thanking them for their efforts.

Resolved: Strongly urge Congress to reauthorize the three CIP grant programs so that state courts are able to sustain, enhance, and expand their reform efforts.

#### **Resolution 9 – In Support of the Federal Legal Services Corporation**

Summary: For more than four decades, the federal Legal Services Corporation has been the vehicle through which the federal interest in civil equal justice is realized. During times of fiscal crisis, it is necessary that government focus on core functions such as the administration of justice, which is furthered by ensuring the availability of civil legal aid. The Appropriations Committee of the US House of Representatives proposes to cut the Legal Services Corporation budget by 26% for FY 2012 and roll back funding to 1999 levels.

Resolved: Strongly urge Congress to maintain a funding level for SJI of no less than the amount appropriated in FY 2010.

## **Resolution 12 – In Support of Flexibility for Problem-Solving Courts**

Summary: The Conferences have identified the principles and methods commonly used in problem-solving courts and have advocated for the careful study and evaluation of those principles and methods. Best practices are emerging. The Conferences support federal funding for the planning and implementation of problem-solving courts. The Administration's budget proposals for FY 2010, 2011, and 2012 proposed the creation of a flexible problem-solving justice grant program in lieu of continued specific funding for drug courts and mental health courts.

### Resolved:

Support flexibility in the funding of problem-solving courts

Encourage the Department of Justice to consider state court leadership's state planning and priorities as they consider grant applications so that federal funds are leveraged to achieve the greatest impact in a state

Encourage DOJ to base funding decisions on fidelity to the principles and methods of problem-solving courts, use of evidence-based practices, and effective design principles.

## **OTHER POLICY**

## **Resolution – In Support of the Judicial Strengthening Project in Macedonia (COSCA only)**

Summary: COSCA and NCSC support the improvement of law and justice in the United States and abroad. The Judicial Strengthening Project will build upon the United States Agency for International Development's prior activities to advance the rule of law in Macedonia. The project will support the judiciary to improve its independence and independence of its systems.

Resolved: Support the strengthening of the judicial system in Macedonia and encourage each State Court Administrator to contribute in furtherance of this objective.

## **Resolution 1 – Ensuring Access to Justice for Limited English Proficient Individuals**

Summary: The American Bar Association established the Language Access Project in September 2010 to develop access to justice standards for state courts. CCJ and COSCA concerns had not been addressed at the time of this resolution. Since then, the ABA tabled the proposal in July in order to work with COSCA on the wording of certain provisions, and the standards will be addressed at February ABA meeting.

Resolved: Oppose the adoption of the proposed ABA language access standards.

## **Resolution 2 – In Support of Measuring Appellate Court Performance**

Summary: Appellate courts need performance standards and measures that provide a balanced view of court performance in terms of prompt and efficient case administration, public access and service, and effective and efficient management. There is a need to develop benchmarks for appellate court performance measures. NCSC has developed an initial set of core appellate court performance measures called Appellate CourtTools.

Resolved: Urge

State appellate courts to develop and test a balanced set of appellate court performance measures consistent with Appellate CourTools

State appellate courts to collaborate with NCSC to learn from other judiciaries' experiences

NCSC to establish a clearinghouse for appellate court performance measurement and management solutions and to serve as a resource center

NCSC to pursue funding to establish a national database to warehouse performance data that could be used to develop benchmarks and comparisons.

**Resolution 6 – In Support of the 2010-2015 National Agenda of the National Association for Court Management**

Summary: NACM is a professional association of court managers from all levels and types of courts. They have adopted six priorities for the coming five years.

- Emphasizing caseload management improvements;
- Sustaining excellence in difficult budget times;
- Enhancing public perceptions of the courts and increasing community collaboration;
- Promoting improved court leadership and governance;
- Preparing for and responding to trends; and
- Supporting professional court management education at two levels – (1) in-service education targeting the NACM Core Competencies and (2) university and college-level programs conferring a certificate or degree.

Resolved: Endorse NACM's 2010-2015 National Agenda and pledge to work with NACM to implement the agenda.

**Resolution 7 – In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process**

Summary: Research has demonstrated that the use of validated and reliable offender risk and needs assessment information to inform supervision and treatment decisions is a critical component of effective strategies to reduce recidivism. The NCSC established a National Working Group to develop guidelines for courts in using risk and needs assessment information to inform the sentencing process. The Working Group produced a report describing a set of guiding principles.

Resolved:

Support the National Working Group's recommendation that offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism; and

Endorse the guiding principles described in the report as a valuable tool for state courts in crafting policies and practices to incorporate such information.

Encourage state and local courts to review the guiding principles and work with their justice system partners to incorporate the information into the sentencing process.

### **Resolution – In Support of the National College of Probate Judges**

Summary: The number of vulnerable elderly persons will increase rapidly over the next twenty years and will likely result in the substantial increase in the number of guardianship, conservatorship, and elder abuse proceedings. These cases are also increasing in complexity. The National College of Probate Judges is the only national organization dedicated exclusively to improving probate law and probate courts. NCPJ offers its members educational conferences and materials to assist judges exercising probate jurisdiction.

Resolved: Urge courts of general jurisdiction that hear probate matters to become “judicial position members” of the NCPJ and take advantage of the resources provided through that membership.

### **Resolution 13 – In Support of the Model Time Standards for State Trial Courts**

Summary: Time standards prompt the fair and expeditious disposition of cases, establish goals for court and case management, set expectations for the public and the bar, stimulate innovations in court procedures and programs, and foster internal and external accountability. Significant advances in case management and court automation have been made since the COSCA and ABA Time Standards were drafted. A broad-based committee led by COSCA has prepared a revised, more comprehensive set of model time standards designed for each state to use as a basis for developing or updating state time standards covering general and limited jurisdiction courts.

Resolved: Endorse the Model Time Standards for State Trial Courts and urge their members to use them as a basis for establishing judicial branch time standards in their states.







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## Washington Courts: Press Release Detail

### Supreme Court Schedules February Public Hearing for Proposed Court Rule

**December 06, 2011**

The Washington Supreme Court has scheduled a public hearing on February 6<sup>th</sup> at 9:30 a.m. for a proposed new court rule governing public access to judicial branch administrative records. The public hearing will occur at the Supreme Court in Olympia.

The proposed rule presumes open access to judicial administrative records, within the standards and guidelines of the rule, and follows a four-month written comment period on the proposed rule that ended November 30, 2011.

The rule was developed to fill a gap in existing state laws and court rules, which do not address public access to judicial branch administrative records. The Washington State Public Records Act does not apply to judicial branch records, and General Court Rule 31 addresses only records pertaining to court proceedings. Because they belong to a separate branch of government, Washington courts and judicial branch agencies are not governed by the Legislature but by the state Supreme Court, which adopts "court rules" to regulate the operations of the courts.

In 2010, the Board for Judicial Administration (BJA) created the Public Records Work Group, which includes members both from within the judicial branch and from outside groups interested in public access to judicial records. The Work Group recommended new standards and procedures for providing this access and creating the proposed "General Court Rule (GR) 31A - Access to Administrative Records."

The proposed rule defines the types of records it pertains to, procedures for obtaining access to the records, sanctions on courts or agencies for non-compliance, exemptions, creation of best practices, tools for handling particularly burdensome requests and an effective date that would give courts and judicial agencies time to train staff and develop best practices.

To read the proposed rule, go to [http://www.courts.wa.gov/court\\_rules/](http://www.courts.wa.gov/court_rules/) and click "Proposed Rules Published for Comments," then click the June 2011 rules, or go directly to [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.proposedRuleDisplay&ruleId=258](http://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=258).

Specific details on commenting procedures will be posted online at [www.courts.wa.gov](http://www.courts.wa.gov) prior to the hearing.

# # #

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